
Digital Technologies and Children's Rights: Balancing Control, Protection, and Consent*

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ABSTRACT. The protection of children's rights in the digital age faces challenges despite legislative efforts. This paper explores the tension between children's control over their data and the control exercised over them by adults, drawing on the theory of subjectivation and objectivation, and against the background of United Nations and European Union legislation. Two specific areas will be examined. The first is 'sharenting', where adults share children's data (e.g. photos, videos) without their consent, potentially violating their rights. The second is the fingerprinting of children from third countries during border control procedures. In both cases, children's vulnerability is not balanced by their ability to participate in decision-making, leading to potential objectification. While these issues are not illegal, they raise ethical concerns about children's rights to autonomy and protection.

KEYWORDS: Children, sharenting, fingerprinting, subjectivation, objectivation.

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RESUMEN. La protección de los derechos de los niños y las niñas en la era digital enfrenta desafíos, a pesar de los esfuerzos legislativos. Este documento explora la tensión entre el control que los menores tienen sobre sus datos y el que los adultos ejercen sobre ellos, en el contexto de la legislación de la Organización de las Naciones Unidas y la Unión Europea. Se analizan dos áreas: el ‘*sharenting*’, es decir, cuando los adultos comparten datos de menores sin su consentimiento (por ejemplo, fotos, videos), y la toma de huellas dactilares de menores en los controles fronterizos. Ambos casos evidencian una vulnerabilidad que no se equilibra con la capacidad de decisión de los niños y niñas, planteando preocupaciones éticas sobre su autonomía y protección.

PALABRAS CLAVE: niños y niñas, *sharenting*, toma de huellas dactilares, subjetivación, objetivación.

SUMMARY: Introduction. I. Legal subjects or data subjects? II. Sharenting: “A message from Ella”. III. Crossing the border as a minor from a third country. IV. From objectivation to subjectivation: A call for children’s rights in practice. References.

Introduction

The protection of children from actual or potential violations of their human rights through digital technologies has received considerable attention at different levels of legislation. However, while children have been recognised at the international, European and national levels as *legal subjects* rather than *objects of the law*, sectoral legislation and social practices still exist that limit their agency and the full expression of their rights.

This paper discusses the tension between *children’s rights* and the *control exercised over them and their data* – rightly defined as the “‘new oil’ of this era”¹ – by *adults* in two key and different areas.

The first area concerns the rights of parents or adults who have legal authority over children and can therefore exercise control over their data to protect them, but who can also potentially violate children’s rights by sharing their data (e.g., information or images on social media) without their consent (often referred to as “sharenting”, derived from the words ‘sharing’ and ‘parenting’). Even when the content shared is not illegal², it can, nonetheless, be problematic for children’s privacy,

1 Livingstone, S.; Blum-Ross, A., and Zhang, D., *What do Parents Think, and Do, about their Children’s Online Privacy?*, *Parenting for a Digital Future: Survey Report 3* [online], London, LSE, 2018, available at: <http://www.lse.ac.uk/media-and-communications/assets/documents/research/preparing-for-a-digitalfuture/P4DF-Report-3.pdf>

2 In the EU context, according to Article 3(h) of the DSA “illegal content” means “any information that, in itself or in relation to an activity, including the sale of products or the provision of services, is not in compliance with Union law or the law of any Member State which is in compliance

safety and, on a different note, agency in terms of managing their identity and image in the digital world.

The second area concerns migrant minors, with particular attention on the differential treatment of third-country children in border control procedures, for whom the new EU Migration Pact³ lowers the age of fingerprinting from fourteen to six years.

Though in both cases the underlying rationale for legislation that allows adults to exercise control over children is the protection of minors, both situations revolve around the rights of the child in relation to the adult-child relationship and become problematic for children's rights in their present and future lives⁴.

Drawing on the theories of subjectivation and objectivation, this paper examines the relevant differences in the situations and the distinct ways in which the adult-child dynamic operates. It discusses the extent to which the particular vulnerability of children is (or is not) adequately addressed by measures to ensure their participation in adult-led decision-making processes against the background of some relevant international law (the United Nations Convention on the Rights of the Child, "CRC"⁵; General Comment No. 25 of 2021 on the rights of children in relation to the digital world of the UN Committee on the Rights of the Child⁶) and law of the European Union (EU), such as the Charter of Fundamental Rights of the European Union (CFREU)⁷, the Digital Service Act (DSA)⁸ and the EU's General Data Protection Regulation (GDPR)⁹.

with Union law, irrespective of the precise subject matter or nature of that law"; Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC. The DSA applies to a wide range of online intermediaries and platforms, including marketplaces, social media networks, content sharing sites, app stores and online travel and accommodation platforms. Its primary aim is to curb unlawful and harmful activity online, while also tackling the spread of disinformation. The DSA aims to protect user safety, safeguards fundamental rights and promotes a transparent and fair online ecosystem.

- 3 Vitiello, D., "L'Agenzia dell'Unione europea per l'asilo come strumento di armonizzazione: potenzialità, limiti e prospettive", *Diritto, Immigrazione e Cittadinanza*, vol. 1, 2024, 1-41.
- 4 Marx, G., and Steeves, V., "From the Beginning: Children as Subjects and Agents of Surveillance", *Surveillance & Society*, vol. 7, n.º 3/4, 2010, 192-230.
- 5 The Convention on the Rights of the Child was signed in New York on 20 November 1989 and entered into force on 2 September 1990.
- 6 UN Committee on the Rights of the Child, General Comment No. 25 (2021) on children's rights in relation to the digital environment, 2 March 2021, CRC/C/GC/25.
- 7 The Charter was declared in 2000, a became legally binding with the coming into force of the Treaty of Lisbon on 1 December 2009: "EU Charter of Fundamental Rights", *Official Journal of the European Union* C83, vol. 53, 2010, 380. A number of provisions of the European Convention on Human Rights (ECHR) are also applicable. The text of the Convention is available at: <https://www.coe.int/en/web/human-rights-convention>
- 8 Regulation (EU) 2022/2065, cit.
- 9 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

The hypothesis of the paper is that the different settings in which sharenting and fingerprinting take place may affect the processes of children's subjectivation differently, with foreign children at the border having less space to reshape their material and social environments through communicative acts, and consequently a higher risk of objectification.

I. Legal subjects or data subjects?

Among several situations that reveal asymmetries in the adult-child relationship, the cases of sharenting and border control involve the use of new technologies in family and public settings respectively, raising concerns about short- and long-term effects on the child's right to privacy, dignity, autonomy/agency, and identity. In both cases, adults are in positions of authority and control over the child's data and representation, while the child's identity is exposed, manipulated or managed by adults.

In sharenting, parents or legal guardians can decide what personal information or images of their child to share, often without considering the child's will and privacy in the short or long term. This action can lead to the objectification of the child, i.e. as "multimedia content" (shared images, videos and audios) on social media shaped by adult mediation and interpretation, which can affect not only children's privacy but also their future digital identity. Even if these potential risks do not translate into concrete dangers such as cyberbullying or identity theft, sharing a child's personal life online has the broader effect of creating a permanent digital footprint that can affect their future self-image and autonomy. Additionally, regardless of the wishes of parents and guardians, children can also be reduced to a "data point" with their personal information potentially commodified for social status, attention or commercial advantage¹⁰.

In the case of fingerprinting migrant minors, the treatment of children as "data points" is even more blatant, as current border control procedures aim to collect biometric information, including that of children, with the risk of prematurely turning them into objects of state control in a security system. Even in the event that future risks never arise that may mark children in legal or immigration systems (e.g. tracking and surveillance), fingerprinting may violate their right to privacy and expose them to a categorisation that may follow them throughout their lives, thus limiting their subjectivity.

In this scenario, theories of subjectivation help to analyse how individuals (or groups) become agents of change through interactions, shaping, and the understanding of their roles as active participants within society.

10 Donovan, S., "'Sharenting': The Forgotten Children of the GDPR", *Peace Human Rights Governance*, vol. 4, n.º 1, 2020, 35-59.

A. Becoming subjects

Subjectivation has been theorised in various ways¹¹, but at its core, it is understood as the ability of individuals or groups to change their reality with a clear understanding of the purpose behind their actions. It is a dynamic process that not only involves adaptation to societal norms but also reflects the ability to question, reinterpret, and modify these norms. In this sense, it can also refer to the process by which individuals become “subjects of rights”, consciously shaping their role within society. It involves an ongoing negotiation of identity in which individuals and groups have the capacity to transform the very norms that subject them.

When it comes to children in relation to their adult counterparts, the actual space for self-subjectivation and the articulation of rights in shaping the world they inhabit needs to be considered within specific social and legal boundaries. In fact, the possibility of taking a legal stand needs to be supported by the adults. The formal and informal power asymmetries between adults and children gradually diminish as children grow up and acquire new rights. Their transition from mere subjects of control to active participants takes place within a complex dynamic.

The concept of subjectivation, as described by theorists such as Judith Butler, explains the “paradoxical”¹² process through which the achievement of subjectivity occurs, where the dual process of domination and submission coexists in the same acts¹³. According to Butler, the becoming of individual subjects is inseparable from this process, highlighting their dependence on external forces that are nevertheless essential to their existence. In the act of becoming, the subjects both repeat and maintain the conditions that make their existence possible¹⁴. The process of becoming is shaped by hierarchical relationships and mediated by external structures such as laws, rights, and media, but it is also relational and shaped by equality and solidarity. These frameworks mold individuals by assigning them specific roles, expectations, and norms. In this context, subjectivity represents the ability of individuals to engage with and respond to these influences with agency, making subjectivation an

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- 11 Foucault, M., “What is Enlightenment?”, in Rabinow, P. (ed.), *The Foucault Reader*, New York, Pantheon Books, 1984, 32-50; Foucault, M., *The History of Sexuality*, vol. 1, London, Allen Lane, 1979; Traue, B. and Pfahl, L., “What is Subjectivation? Key Concepts and Proposals for Future Research”, in Bosančić, S.; Brodersen, F.; Pfahl, L.; Schürmann, L.; Spies, T., and Traue, B. (eds.), *Following the Subject. Grundlagen und Zugänge empirischer Subjektivierungsforschung – Foundations and Approaches of Empirical Research on Subjectivation*, Wiesbaden, Springer VS, 2022, 25-44.
 - 12 Davies, B., “Subjectification: The Relevance of Butler’s Analysis for Education”, *British Journal of Sociology of Education*, vol. 27, n.º 4, 2006, 425.
 - 13 Butler, J., “Contingent Foundations: Feminism and the Question of ‘Postmodernism’”, in Benhabib, S.; Butler, J.; Cornell, D., and Fraser, N. (eds.), *Feminist Contentions. A Philosophical Exchange*, New York, Routledge, 1995, 35-57, spec. 45-46.
 - 14 Butler, J., *The Psychic Life of Power*, Stanford, Stanford University Press, 1997; Butler, J., *Excitable Speech. A Politics of the Performative*, London, Routledge, 1997.

inherently relational and dynamic process. These conditions of possibility are deeply embedded in *discourse* and reinforced through interconnected *social acts*.

Butler posits that subjectivation encompasses both the process of subjection and the emergence of the subject, in ways that not only constrain but also actively shape the subject¹⁵. Subjectivation is influenced by discourse – particularly through the performative – and holds significant political potential. She also describes the ability to name and thereby constitute, resulting from subjectivation, “discursive agency”¹⁶. By framing agency as discursive, Butler sees the performatively constituted subject engaged with discourses that are performative and possess the capacity to be constitutive¹⁷. By engaging in “performative politics”¹⁸, the meanings of prevailing and authoritative discourses can be redefined.

Human beings can be both objectified and subjectified by and through law. Individuals or groups can be reduced to mere objects within legal frameworks, deprived of agency and rights. They can also be endowed with legal identity, agency and rights, enabling them to become empowered subjects within a legal system. Law thus serves as an instrument that can either diminish or enhance the autonomy and recognition of individuals.

Applying these concepts to children means that their marginalised discourses can be activated and rendered significant within the contexts from which they have been omitted, i.e. the relationship with adults. The challenge is to take up their subjectivating processes to constitute children differently, as true legal subjects who can be supported, depending on their age and maturity, to win control of their image, identity, and data.

B. Children as subjects of rights

The provisions of the CRC have the potential to subjectify children – as legal subjects. Apart from the guiding principle of the best interests of the child and its interpretation in courts (Article 3)¹⁹, Article 12 emphasises the right of children to

15 Butler, J., *The Psychic Life of Power*, cit., 83-84.

16 *Ibid.*; Butler, J., *Excitable Speech*, cit.

17 Migliarini V., “Subjectivation, Agency and the Schooling of Raced and Dis/Abled Asylum-Seeking Children in the Italian Context”, *Intercultural Education*, vol. 28, n.º 2, 2017, 182-195; Rey, P. J., and Boesel, W. E., “The Web, Digital Prostheses, and Augmented Subjectivity”, in Kleinman, D. L., and Moore, K. (eds.), *Routledge Handbook of Science, Technology, and Society*, New York, Routledge, 2014, 173-188; Wall, J., “Transforming Critical Theory in Response to Children”, in *The Bloomsbury Handbook of Theories in Childhood Studies*, 2023, 208; cfr. Youdell, D., “Intelligibility, Agency and the Raced-Nationed-Religioned Subjects of Education”, in Bhopal K., and Preston, J. (eds.), *Intersectionality and “Race” in Education*, 2012, London, Routledge, 192-212.

18 Butler, J., *Excitable Speech*, cit.

19 Livingstone, S., and Özkul, D., *Identifying the “Best Interests of the Child” in Relation to the Digital Environment* [online], February 6, 2024, available at: <https://blogs.lse.ac.uk/media/2024/02/06/identifying-the-best-interests-of-the-child-in-relation-to-the-digital-environment/>

freely express their views on matters affecting them with due regard to their age and maturity, which includes the *right to be listened to*, while Article 16 states that “no child shall be subjected to arbitrary interference with his or her privacy, family, home or correspondence, or to unlawful attacks upon his or her honour and reputation” and that “the child shall have the right to the protection of the law against such interference or attacks”.

Article 24 of the CFRUE establishes the child's right to necessary protection and care for their well-being, along with the right to freely express their views, which should be considered in matters concerning them, in accordance with their age and maturity. It mandates that in all actions concerning children, whether by public authorities or private institutions, the child's best interests must be a primary consideration.

However, the use of technologies poses challenges to the realisation of the human rights enshrined in international and supranational documents such as the CRC and the CFRUE, as illustrated by the aforementioned UN General Comment No. 25 of 2021.

This document devotes an entire section to children's right to privacy²⁰, noting that privacy is key to “children's agency, dignity, security and the exercise of their rights” and warning of the threats to children's privacy that can arise from the activities of family members (e.g. sharing photos online)²¹ and the collection and processing of data by public institutions²². It also emphasises that interference with a child's privacy is only permissible if it is neither arbitrary nor unlawful, and, therefore, should be “provided for by law, be for a legitimate purpose, respect the principle of data minimisation, be proportionate, have regard to the best interests of the child and not be contrary to the provisions, aims and objectives of the Convention [CRC]”²³. Children should also be given “the right to withdraw their consent and to object to the processing of personal data unless the controller can demonstrate legitimate and overriding reasons for the processing”²⁴. They should also be informed in child-friendly language and accessible formats.

Finally, in the EU context, soft law documents such as the 2022 Strategy for a Digital Decade for Children and Young People (BIK+)²⁵ underline the need to involve children in decision-making processes and their right to be “better heard

20 *Ibid.*, paras. 67-78.

21 Walrave, M.; Robbé, S.; Staes, L., and Hallam, L., “Mindful Sharenting: How Millennial Parents Balance between Sharing and Protecting”, *Frontiers in Psychology*, vol. 14, 2023, 1-13.

22 *Ibid.*, para. 67.

23 *Ibid.*, para. 69.

24 *Ibid.*, para. 72.

25 EU Commission, Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions “A Digital Decade for children and youth: the new European strategy for a better internet for kids” (BIK+), 11 May 2022, COM/2022/212 final.

and involved in the development and evaluation of digital products and services and digital policies”²⁶.

II. Sharenting: “A message from Ella”

Despite concerns that children’s privacy is at risk from revealing too much personal material online, many parents share images and content about their children²⁷. This phenomenon, which has been described as a “paradox”²⁸, has only recently attracted legal attention at national level in the EU legal context, where some states have sought to fill the gap left by the GDPR.

In fact, although the GDPR has been heralded as a milestone in the protection of personal data (including that of children), it falls short in protecting children’s privacy, leaving them particularly vulnerable to disclosure through online sharing by their parents²⁹. It focuses mainly on the monitoring of young people’s online activities and the use of children’s personal data for marketing purposes, as well as the collection of children’s personal data when using services offered directly to a child³⁰. On the contrary, the GDPR does not apply “to the processing of personal data by a natural person in the course of a purely personal or household activity, and thus without any connection to a professional or commercial activity”³¹, leaving room for sharenting and over-sharenting.

26 *Ibid.*, Section 3.

27 The growth of “sharenting” and the rise of baby influencers is changing the digital environment, with research showing that parents share an average of 300 photos of their children online each year. In addition, 15% of Italian parents regularly post ultrasound images of their children on social media, Steinberg, S. B., “Sharenting: Children’s Privacy in the Age of Social Media”, *Emory Law Journal*, vol. 66, 2016, 839-883. According to the reports “Who Knows What About Me? A Children’s Commissioner Report into the Collection and Sharing of Children’s Data” and “Life in ‘likes’. Children’s Commissioner report into social media use among 8-12 year olds”, published by the Children’s Commissioner for England in 2018, it is estimated that by the age of thirteen, a child is likely to appear on their parents’ social media accounts or profiles up to 1,300 times. These appearances typically occur during events like holidays, sports competitions, daily school activities, and especially on birthdays. This trend impacts 53% of French parents and approximately 40% of parents from other European countries.

28 Ní Bhroin, N., *et al.*, “The Privacy Paradox by Proxy: Considering Predictors of Sharenting”, *Media and Communication*, vol. 10, n.º 1, 2022, 371-383.

29 Donovan, S., “Sharenting”, *cit.*

30 Recital 38 of the GDPR Preamble recalls that “children merit specific protection with regard to their personal data, as they may be less aware of the risks, consequences and safeguards concerned and their rights in relation to the processing of personal data. Such specific protection should, in particular, apply to the use of personal data of children for the purposes of marketing or creating personality or user profiles and the collection of personal data with regard to children when using services offered directly to a child. The consent of the holder of parental responsibility should not be necessary in the context of preventive or counselling services offered directly to a child”.

31 Recital 18 states that the GDPR “does not apply to the processing of personal data by a natural person in the course of a purely personal or household activity and thus with no connection to a professional or commercial activity. Personal or household activities could include correspondence and the

Some scholars argue that these gaps stem from the GDPR's flawed assumption that all parents and guardians are adequately equipped with the necessary technological skills and, moreover, will always act in their children's best interests. In reality, many lack the digital literacy to protect their children's privacy. For example, they may not consider that once an image is posted online, control over it is effectively lost due to the possibility of downloading and replicating the content on other sites, the permanence of the content online and its unpredictable return even if it is immediately removed³².

Many parents remain unaware of the numerous and far-reaching risks of sharenting, ranging from identity theft and the illegal use of children's data as well alteration of images to create child pornography, to interference with children's autonomy, self-determination and subjectivation³³.

Recent research has shown that sharing such content online can also lead to emotional harm for the child, caused by the sensationalisation of his or her life or fictitious identifications³⁴. Even if parents don't usually share information for commercial purposes, and even in cases when adopt strategies to protect their children's privacy³⁵, sharenting nonetheless "fosters a culture of surveillance, transforming children into 'calculable beings'"³⁶, shaped both by their own digital presence and by the online actions of their parents³⁷.

The UN General Comment No. 25 of 2021 rightly highlights that "the protection of a child's privacy in the digital environment may be critical in circumstances where parents or caregivers themselves pose a threat to the child's safety or are in

holding of addresses, or social networking and online activity undertaken within the context of such activities. However, this Regulation applies to controllers or processors which provide the means for processing personal data for such personal or household activities.

32 Cino, D., "Dilemmi digitali e governance dell'identità digitale dei minori: l'interazione fra pari come opportunità informale di media education", *Media Education*, vol. 11, n.º 2, 2020, 149-161; Holloway, D., and Green, L., "Mediated Memory Making: The Virtual Family Photograph Album", *Communications*, vol. 42, n.º 3, 2017, 351-368; Steinberg, S. B., "Sharenting", cit.; Siibak, A., and Traks, K., "The Dark Sides of Sharenting", *Catalan Journal of Communication & Cultural Studies*, vol. 11, n.º 1 2019, 115-121.

33 Steinberg, S. B., "Sharenting", cit., 854.

34 Kopecky, *et al.*, "The Phenomenon of Sharenting and its Risks in the Online Environment. Experiences from Czech Republic and Spain", *Children and Youth Services Review*, vol. 110, 2020, 1-6.

35 These strategies include pixelating photographs, obscuring faces with emoticons, blurring children's faces, capturing images from a distance, photographing children with their faces turned away from the camera, focusing on specific body parts, or removing identifiable features from the image, Walrave, M.; Robbé, S.; Staes, L., and Hallam, L., "Mindful Sharenting", cit.

36 Donovan, S., "Sharenting", cit.

37 Autenrieth, U., "Family Photography in a Networked Age", in Mascheroni, G.; Ponte, C., and Jorge, A. (eds.), *Digital Parenting. The Challenges for Families in the Digital Age*, Goteborg, Nordicom, 2018, 219-231.

conflict over the child's care. Such cases may require further intervention as well as family counselling or other services to protect the child's right to privacy"³⁸.

In April 2024, a Member of the European Parliament ("MEP") submitted a question for written answer to the Commission³⁹ seeking information on the measures taken by the Commission to "assist parents in practicing media literacy, with a focus on critical thinking and understanding the repercussions of sharing their children's information online", on the resources allocated to these initiatives, if any, and on the steps taken "to detect and punish the illegal use of data relating to children that parents have published online (e.g. on social media)". The initiative follows the campaign "ShareWithCare"⁴⁰, launched by Deutsche Telekom to raise awareness of the dangers of oversharing personal information online, particularly for children's privacy. It consists of an educational film ("A message from Ella/Without Consent")⁴¹ for parents featuring an AI-generated 17-year-old girl called 'Future Ella', a more grown-up version of her younger self, who warns her parents of the potential negative consequences of sharing her childhood photos online without her consent.

More specifically, legislative efforts are beginning to address some of these concerns. For example, in France, the *Loi n° 2024-120 visant à garantir le respect du droit à l'image des enfants*⁴², which aims to ensure respect for children's image rights, applies directly to parents or legal guardians to address the risks associated with sharenting. This is a different approach from other legislation that regulates data controllers or processors⁴³. This approach is also supported by the French Data Protection Authority (Commission Nationale de l'Informatique et des Libertés)⁴⁴, which recently issued guidelines on the dangers of sharenting and children's privacy rights⁴⁵.

French legislation emphasises that photos and videos are considered personal data and that children have a fundamental right to privacy and control over their

38 UN General Comment No. 25 of 2021, para 17.

39 Kaili, E., "Question for Written Answer E-000998/2024 to the Commission" [online], available at: https://www.europarl.europa.eu/doceo/document/E-9-2024-000998_EN.pdf

40 The campaign is available at: <https://www.telekom.com/de/konzern/details/share-with-care-1041638>.

41 Available at: https://www.youtube.com/watch?v=F4WZ_k0vUDM.

42 *Loi n° 2024-120 du 19 février 2024 visant à garantir le respect du droit à l'image des enfants*.

43 See Information Commissioner's Office (ICO), *Age Appropriate Design Code of the United Kingdom* [online], Wilmslow, Cheshire, ICO, 2018, available at: https://ico.org.uk/media/about-the-ico/documents/2618093/code-of-practice-dpa-2018-age-appropriate-design-code_v_2_1.pdf, introduced by the Information Commissioner's Office (ICO), a non-departmental public body which is sponsored by the Department for Science, Innovation and Technology and reports directly to the Parliament of the UK.

44 See: <https://www.cnil.fr/en>

45 CNIL's Guidance, "Sharing Photos and Videos of Your Child on Social Networks: What Are the Risks" [online], available at: <https://www.cnil.fr/en/sharing-photos-and-videos-your-child-social-networks-what-risks>

image. Children's digital rights include the right to access, rectify, delete and object to the processing of their personal data and can be exercised either by the children themselves or through a legal representative. Parents or guardians are empowered to act on behalf of their children, in particular to request the removal of images or videos that have been shared or reused without proper consent⁴⁶.

In Italy, the Italian Authority for Children and Adolescents ("Garante per l'Infanzia e l'Adolescenza")⁴⁷ has pushed for the application of cyberbullying regulations that allow minors to directly request the removal of content relating to them from the Internet in the context of sharenting⁴⁸.

At the time of writing, a bill has been submitted to the Italian Chamber of Deputies entitled "Provisions on the right to the image of minors"⁴⁹. It consists of only three (but relevant) articles. The first provision requires parents (or legal guardians) who wish to show their children's faces on social media to sign a written declaration and send it to the Italian Communications Authority (AgCom)⁵⁰.

If the bill is passed, social platforms will be asked to create guidelines to make parents aware of the risks of sharenting.

Article 2 stipulates that "children have the right to privacy and it is forbidden for anyone to disseminate or transmit multimedia content concerning minors, unless it is in the primary and objective interest of the minor, in accordance with the principles and limits established by the Treviso Charter"⁵¹.

It also requires that "those having parental responsibility shall jointly protect the right to the image of the child and shall involve the child in the exercise of his or her right to the image, in accordance with his or her age and degree of maturity. This protection includes the use or distribution of multimedia content". Furthermore, the aforementioned multimedia content is an "act of extraordinary administration" which falls under the "exclusive and joint responsibility" of those exercising parental responsibility.

46 On children's right to be "forgotten", see Leaver, T., "Balancing Privacy: Sharenting, Intimate Surveillance, and the Right to Be Forgotten, in Green, L. *et al* (eds.), *The Routledge Companion to Digital Media and Children*, New York, Routledge, 2020, 235-244.

47 See: <https://www.garanteinfanzia.org/>

48 Garlatti, C., *Foto dei minori sui social, la proposta dell'Authority infanzia e adolescenza* [online], 28 settembre 2022, available at: <https://www.agendadigitale.eu/sicurezza/foto-dei-minori-sui-social-la-proposta-dellauthority-infanzia-e-adolescenza/>

49 Chamber of Deputies, Bill on the initiative of Ms Sportiello amending Law No. 977 of 17 October 1967 on the use of minors in the context of digital minors in the context of digital platforms for the exchange of multimedia content, as well as provisions on the dissemination of the image and multimedia content of minors, presented on 12 March 2024 [online], available at: <https://documenti.camera.it/leg19/pdl/pdf/leg.19.pdl.camera.1771.19PDL0081550.pdf>.

50 See: <https://www.agcom.it/>

51 The Treviso Charter is a protocol signed on 5 October 1990 by the Order of Journalists, the National Federation of the Italian Press and Telefono Azzurro (a helpline for children) with the aim of regulating the relationship between information and children.

The bill could be an important instrument for the subjectivation of children, since it provides that in all cases the will expressed by the child (depending on age and maturity) is taken into account when those exercising parental responsibility give their consent.

In addition, several provisions of the bill aim to extend the ability of children to take action for their own protection from the age of fourteen. In fact, according to the bill, when they reach the age of fourteen, children “may at any time [...] request the deletion of personal data in accordance with Article 17 of the GDPR, including in relation to multimedia content distributed by those exercising parental responsibility or with their consent”. At the same time, Article 4 proposes to amend Article 2 *quinquies* of the Personal Data Protection Code by raising the age for expressing lawful consent to the processing of data from fourteen to sixteen.

To enhance the effectiveness of the provisions, Article 3 of the draft law imposes specific obligations on digital platform services for the exchange of multimedia content. These platforms will be required to implement measures agreed upon by AgCom and the Italian Children and Adolescents Authority.

The measures are designed to improve, in collaboration with child protection associations, on the one hand, the awareness among minors of the psychological and legal risks associated with sharing their image on such platforms, and of the means available to them to protect their rights; on the other hand, the identification of situations in which the production or distribution of such content would offend the dignity or the moral or physical integrity of minors. They also aim to protect minors’ rights, dignity, and psychophysical integrity, and prevent the commercial exploitation of their personal data, such as through selection, profiling, or targeted advertising.

Additionally, platforms must improve detection of content that could harm minors’ dignity or integrity, facilitate the exercise of minors’ right to data erasure under Article 17 of the GDPR, and ensure compliance with Article 8 of the GDPR, which mandates that the processing of data for minors under sixteen requires parental consent⁵².

In the context of the transversal teaching of civic education and the guidelines for the prevention and the fight against cyberbullying referred to in article 4 of Law no. 71, the bill also promotes the active role of students in schools of all levels, as well as former students who have already worked in the school, in peer education activities, in order to promote a conscious use of the Internet and an understanding of the mechanisms for the transmission of personal data, of the tools useful to protect

52 Article 8 states that “[...] in relation to the offer of information society services directly to a child, the processing of the personal data of a child shall be lawful where the child is at least 16 years old. [...] Where the child is below the age of 16 years, such processing shall be lawful only if and to the extent that consent is given or authorised by the holder of parental responsibility over the child. [...] Member States may provide by law for a lower age for those purposes provided that such lower age is not below 13 years”.

them, as well as for the creation of content, the collection of data and the dissemination of positive messages among young people using sharing platforms.

Finally, the Presidency of the Council of Ministers, in collaboration with the Ministry of Education, the AgCom and the Authority for Childhood and Adolescence, should prepare prevention and awareness-raising information campaigns, using the main media and the press, on the phenomenon of the dissemination of multimedia content sharing relating to minors on digital platforms and the consequent risks for minors themselves, for which public funding of 30,000 euros per year should be guaranteed.

In the light of the above, it can be stated that despite the vulnerabilities children face when their images and personal information are shared, there is a growing recognition of children's rights to self-determination, autonomy, and control over their digital identities. This recognition opens up possibilities for children to become active subjects in the management of their digital presence, rather than passive objects of their parents' choices. The right of children to request the removal of their data from online platforms once they reach a certain age (as seen in both French legislation and Italian bill) enhances their ability to assert autonomy over their digital footprints. These provisions recognise that as children grow older, they should have a say in how their personal data is handled, thereby strengthening their capacity for subjectivation.

Pending legislation, this process is supported by recent court rulings that have improved the protection of children's privacy and safety (protection of the "child web reputation") by reaffirming the important principle of protecting the privacy of minors and ordering the removal of content deemed to violate image protection.

In 2017, an unprecedented ruling of the Court of Rome stated that the judge can order the removal of images of the child, as well as the payment of a sum of money in favour of the child because it is an offence⁵³.

The case concerns a 16-year-old boy who asked to be protected from his mother, who was publishing too many posts and comments about him online. The boy showed the social worker screenshots of some of the posts published by his mother on social networks, including photos and details of personal affairs. He expressed his discomfort before the judge. The Court of Rome sentenced the mother to remove the content concerning the child and to pay 10,000 euros to him (through the guardian) and to her husband in case of non-compliance with the removal order or the prohibition of further post.

In the same year, the Court of Mantua⁵⁴ ordered a mother not to publish online photos of her children on social networks and to remove those already posted,

53 Tribunal of Rome, 23 December 2017 (Case 39913/2015). For a detailed account of the Italian case law on this issue, see Foglia, M., "Sharenting e riservatezza del minore in rete", *Actualidad Jurídica Iberoamericana*, vol. 16 bis, 2022, 3550-3569.

54 Tribunal of Mantua, 19 September 2017.

because it could endanger them. The judgement states that “the inclusion of photos of minors in social networks constitutes conduct potentially prejudicial to them, since it leads to the dissemination of the images among an indeterminate number of persons, known and unknown, who approach the children after having seen them several times, known and unknown persons, who may be malicious and approach the children after having seen them several times in online photos, since the further danger posed by the conduct of persons who “tag” the online photos of minors and, by means of photomontage procedures, obtain child pornographic material to be circulated among the persons concerned cannot be overlooked [...]. Therefore, the harm to the minor is inherent in the dissemination of his image on social networks, so that the order of inhibition and removal must be issued immediately”.

The reasoning of the Court of Mantua was adopted by the Court of Trani⁵⁵ in 2021, which dealt with videos shared on Tik Tok, holding that the mother’s publication of videos with her underage daughter was in breach of a number of national, EU and international standards. After recalling that image of one’s children are personal data according to the GDPR and therefore its dissemination constitutes an interference with private life, it states that the consent for the publication of such data must be given by the parents on behalf of their children, in mutual agreement and without harming the honour, decency and reputation of the child’s image. The court therefore ordered the mother to remove the videos and to pay a sum of 50 euros to her daughter’s account for each day of delay in complying with the removal order.

III. Crossing the border as a minor from a third country

The 2017 Communication on Children in Migration⁵⁶ sets forth key guidelines for the treatment of migrant children by EU Member States, emphasising the need to identify and register them *as minors* when they cross borders. In recognising minors as a special category and ensuring that they are identified and registered as such, these provisions may support children’s subjectivation possibilities⁵⁷.

This approach also ensures that their specific rights and needs are prioritised throughout the migration process. Furthermore, the implementation of child-sensitive and gender-aware procedures for collecting biometric data further enhances their

55 Tribunal of Trani, 30 August 2021.

56 Communication from the Commission to the European Parliament and the Council “The Protection of Children in Migration”, cit.

57 On the challenges currently hindering the exercise and implementation of the right to legal assistance and representation of unaccompanied children in several Member States of the EU despite the crucial role that guardians and legal advisers play in ensuring their welfare, see Vannelli, M., “The Unaccompanied Child’s Right to Legal Assistance and Representation in Asylum Procedures under EU Law”, *Laws*, vol. 11, n.º 1, 2022, 1-18.

recognition as individuals whose rights must be protected⁵⁸. The Communication also highlights the acute vulnerability of unaccompanied and separated children⁵⁹, who may be particularly exposed to various forms of violence, and puts emphasis on inter-agency cooperation and increased staffing for child-related services. These provisions demonstrate a framework that aims to respect the child as a subject with rights, seeking to ensure that the best interests of the child are at the centre of migration policies.

According to the European Migration Network⁶⁰, significant progress has been made in the identification and registration of minors at the EU borders, particularly in 2021 and 2022.

These improvements include more sophisticated biometric data collection specifically designed for children, enhanced inter-agency cooperation on child protection issues, increased staffing dedicated to child-related services, and legal as well as procedural reforms to better identify vulnerable children, often driven by rising migration pressures. These efforts aim to ensure that migrant children's vulnerabilities are recognised and adequately addressed throughout the migration process. However, they are not enough and the ways in which these children are objectified are also evident.

Indeed, in the European context, the introduction of the new EU Pact on Migration and Asylum in May 2024⁶¹ marked a significant shift in the way irregular migration is dealt with, strengthening screening and border control procedures, including security checks and assessments for persons entering the EU irregularly, such as asylum seekers.

58 Cfr. EU Commission, Communication to the European Parliament and the Council "The Protection of Children in Migration", 12 April 2017, COM(2017) 211 final.

59 Unicef, *The Rights of Children in Vulnerable Circumstances: A Global Overview*, Geneva, Unicef, 2018; Council of Europe, and European Union Agency for Fundamental Rights, *Children in Migration: Fundamental Rights Considerations*, Strasbourg Cedex, Council of Europe and FRA, 2023.

60 European Migration Network (EMN), Report "Children in Migration 2021-2022: An Overview" [online], 2024, available at: https://home-affairs.ec.europa.eu/document/download/7ad0d084-0522-4814-8473-30e96bf5f43_en?filename=EMN%20study%20on%20children%20in%20migration_en.pdf.

61 See at: https://home-affairs.ec.europa.eu/policies/migration-and-asylum/pact-migration-and-asylum_en The pact will enter into force on 11 June 2024 and will be implemented after two years. For a critical perspective, see, among others, Cassarino, J. P., and Marin, L., "The New Pact of Migration and Asylum: Turning EU Territory into a Non-Territory", *EU Law Analysis European Journal of Migration and Law*, vol. 24, n.º 1, 2022, 1-26; Peers, S., "The New EU Asylum Laws: Taking Rights Half-Seriously" [online], *Yearbook of European Law*, 2024, yeae003, available at: <https://doi.org/10.1093/yel/yeae003>; Wolff, S., "The New Pact on Migration: Embedded Illiberalism?", *JCMS*, 2024, 1-11; Avello Martínez, M., "EU Borders and Potential Conflicts between New Technologies and Human Rights", *Peace & Security – Paix et Sécurité Internationales*, vol. 11, 2023, 1-33; Picum, and ECRE, *Beyond Walls and Fences: Eu Funding Used for a Complex and Digitalised Border Surveillance System. Study on the Use of the Border Management and Visa Instrument during the 2021 – 2027 Multiannual Financial Framework* [online], 2024, available at: https://picum.org/wp-content/uploads/2024/07/Beyond-walls-and-fences_EU-funding-used-for-a-complex-and-digitalised-border-surveillance-system_EN.pdf

Within this framework, new rules concern the Eurodac database⁶² – a comprehensive IT system that has been operational since 2003 to facilitate the management of asylum applications across Europe – to allow for the collection of more accurate and complete data (also biometric data) on different categories of migrants, including applicants for international protection and people arriving irregularly in the EU.

Previous procedures already required the collection of personal and biometric data, which are systematically compared with national and European police and immigration databases, such as those of Europol and Interpol, as part of the interoperability framework⁶³. The new rules of 2024 aim to ensure interoperability with other EU databases – namely the European Travel Information and Authorisation System (ETIAS)⁶⁴ and the Visa Information System (VIS)⁶⁵. They also extend the use of Eurodac to generate immigration statistics.

Scholars maintain that the level of personal data protection afforded to them in the Eurodac mechanism may, in certain respects, be less stringent than that generally offered to EU citizens, even though the GDPR must also extend its scope to asylum seekers within the EU⁶⁶.

This is particularly evident in the light of the principle of proportionality, set out in Article 52(1) of the CFRUE, according to which any limitation of guaranteed rights must be strictly necessary and proportionate to the pursuit of a legitimate aim. This principle does not always seem to be rigorously applied to non-EU nationals, not only because the biometric data collected and stored in the databases are difficult for migrants themselves to access, but also because these measures don't seem proportionate to public security objectives.

62 Eurodac has transformed the existing database into a fully-fledged asylum and migration database, ensuring the unique identification of all persons entering the EU as asylum seekers or irregular migrants. It achieves this by digitally storing and processing the fingerprints of asylum seekers and irregular migrants entering European nations. Through this mechanism, Eurodac enables the identification of duplicate or new asylum requests by cross-referencing them with existing records within its extensive database, Council Regulation (EC) 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention; Regulation (EU) 2013/603 on Eurodac, the EU asylum fingerprint database for comparing asylum applicants' fingerprints.

63 Regulation (EU) 2019/817 establishing a framework for interoperability between EU information systems in the field of borders and visa; Regulation (EU) 2019/818 establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration; see Blasi Casagran, C., "Fundamental Rights Implications of Interconnecting Migration and Policing Databases in the EU", *Human Rights Law Review*, vol. 21, n.º 2, 433-457.

64 https://travel-europe.europa.eu/etias/what-etias_en

65 See at: https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa/visa-information-system_en

66 Bendinelli, R., "Le norme sul trattamento dei dati personali dei richiedenti asilo nell'Unione europea: talune criticità rispetto al caso dell'interessato minorenne", *Diritto, Immigrazione e Cittadinanza*, n.º 1, 2024, 1-37; Napolitano, C., "Digitalizzazione delle procedure di ingresso: il difficile equilibrio tra la sicurezza pubblica e il rispetto dei diritti fondamentali degli immigrati", *ADiM Blog, Analisi & Opinioni*, 2024.

Of particular concern is the potential impact on families with children and unaccompanied minors, raising the specter of *de facto* detention⁶⁷. The Eurodac Regulation 2024/1358⁶⁸ introduces new biometric identification rules, prioritising fingerprints as the primary method of identification, with facial images serving as a secondary option if fingerprinting is not feasible. With particular concern to children, it expresses the view of strengthening the protection of all children falling under its scope, including unaccompanied minors who have not applied for international protection and children who might become separated from their families, by taking “biometric data for storage in Eurodac to help establish the identity of children and to assist Member States in tracing any of their family members in, or links they might have with, another Member State, as well as in tracing missing children, including for law enforcement purposes, by complementing the existing instruments, in particular the Schengen Information System (SIS) established by EU Regulation 2018/1862 of the European Parliament and of the Council”⁶⁹.

When it comes to children's data, the impact of this mechanism does not seem to be in line with the suggestions of the UN Joint General Comment No. 3 (2017)⁷⁰, according to which

[c]hildren's personal data, in particular biometric data, should only be used for child protection purposes, with strict enforcement of appropriate rules on collection, use and retention of, and access to, data. The Committees urge due diligence regarding safeguards in the development and implementation of data systems, and in the sharing of data between authorities and/or countries. States parties should implement a “firewall” and prohibit the sharing and use for immigration enforcement of the personal data collected for other purposes, such as protection, remedy, civil registration and access to services. This is necessary to uphold data protection principles and protect the rights of the child, as stipulated in the Convention on the Rights of the Child⁷¹.

67 Council of Europe, and European Union Agency for Fundamental Rights, *Children in Migration: Fundamental Rights Considerations*, cit.

68 Regulation (EU) 2024/1358 of the European Parliament and of the Council of 14 May 2024 on the establishment of ‘Eurodac’ for the comparison of biometric data in order to effectively apply Regulations (EU) 2024/1351 and (EU) 2024/1350 of the European Parliament and of the Council and Council Directive 2001/55/EC and to identify illegally staying third-country nationals and stateless persons and on requests for the comparison with Eurodac data by Member States’ law enforcement authorities and Europol for law enforcement purposes, amending Regulations (EU) 2018/1240 and (EU) 2019/818 of the European Parliament and of the Council and repealing Regulation (EU) No 603/2013 of the European Parliament and of the Council.

69 Recital 44 of the Preamble of Eurodac Regulation.

70 Joint General Comment No. 3 (2017) of the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the UN Committee on the Rights of the Child on the General Principles Regarding the Human Rights of Children in the Context of International Migration, 17 November 2017, CMW/C/GC/3-CRC/C/GC/22.

71 *Ibid.*, para. 17.

Article 14 of the Eurodac Regulation (EU) 2024/1358 also lowers the minimum age for biometric data collection from fourteen to six years, and controversially states that “a proportionate degree of coercion may be used against minors to ensure their compliance with this obligation”⁷². This practice raises ethical, legal, and privacy concerns, in particular with regard to the rights, dignity, and well-being of unaccompanied minors, although Article 14 also provides rules for the protection of children. For example, it states that “no form of force shall be used against minors to ensure their compliance with the obligation to provide biometric data” and that “when applying such a proportionate degree of coercion, Member States shall respect the dignity and physical integrity of the minor”. It also stipulates that fingerprinting must be supervised by trained staff responsible for the child’s welfare and that data must be collected “in a child-friendly and child-sensitive manner and in full respect of the best interests of the child and the safeguards laid down in the United Nations Convention on the Rights of the Child”⁷³.

Further complicating the issue is the differing treatment of EU and non-EU children under the Eurodac Regulation (EU) 2024/1358. EU children are exempt from providing fingerprints for passports and travel documents until the age of twelve, whereas non-EU children are subjected to biometric processing as early as six, creating a discriminatory framework that undermines the principle of equality.

The justification for lowering the age of biometric data collection for non-EU children is often linked to efforts to combat human trafficking. However, data on whether non-EU children are more susceptible to trafficking remains inconclusive⁷⁴. Even assuming this rationale is accurate, critics point out that the unreliability of children’s fingerprints has been cited as a reason for rejecting similar proposals for EU children, a concern disregarded for non-EU minors. This discrepancy may suggest a double standard in legislative attitudes toward children, depending on their nationality and migration status⁷⁵.

72 Unicef, *Joint Statement: Coercion of Children to Obtain Fingerprints and Facial Images is Never Acceptable* [online], 2018, available at: <https://www.unicef.org/eca/pressreleases/joint-statement-coercion-children-obtain-fingerprints-and-facialimages-never>

73 Article 14, paragraph 1, Eurodac Regulation. Furthermore, under the ECHR, Article 3, which prohibits torture and other forms of ill-treatment needs to be adjusted to take account of the specific needs of children. States have also an obligation to respect Article 2 (right to life) and Article 5 (right to liberty), Council of Europe, and European Union Agency for Fundamental Rights, *Children in Migration: Fundamental Rights Considerations*, cit., 12.

74 European Commission - Directorate-General for Migration and Home Affairs, *Data Collection on Trafficking in Human Beings in the EU*, Luxembourg, Publications Office, 2020; Eurostat, *Trafficking in Human Beings*, Luxembourg, Publications Office, 2015; Europol, *Situation Report. Trafficking in Human Beings in the EU*, No. 765175, February 2016. Cfr. Bendinelli, R., “Le norme sul trattamento dei dati personali dei richiedenti asilo nell’Unione europea, cit.; Goździak, E. M., *Human Trafficking as a New (In)Security Threat*, London, Palgrave Macmillan, 2021.

75 Council of Europe, and European Union Agency for Fundamental Rights, *Children in Migration: Fundamental Rights Considerations*, cit., 12.

Such practices could result in arbitrary or unlawful interference with children's right to privacy, with potentially lasting consequences that may affect them in later stages of life⁷⁶, not to mention the psychological strain on children who have already faced harsh conditions during the journey to Europe.

Among many initiatives to sensitise public institutions, a Joint Statement on the coercion of children to obtain fingerprints and facial images is never acceptable, issued by civil society and UN organizations in 2018, drew attention to the harms of identifying and registering children, stating that "even when done with a child protection objective in mind, coercing children in any way or form in the context of migration-related procedures violates children's rights, which EU Member States have undertaken to respect and uphold"⁷⁷.

Despite the safeguards mentioned in the UN General Comment No. 25, which stipulates that children's personal data should only be accessible to authorities, organisations, and individuals authorised by law to handle them, in compliance with safeguards such as regular audits and accountability mechanisms⁷⁸, the risk of reducing children to mere entries in databases remains substantial. This is particularly problematic given the uncertain data on whether non-EU children are more vulnerable to trafficking, which is used to justify the early collection of biometric data.

IV. From objectivation to subjectivation: A call for children's rights in practice

Both sharenting and fingerprinting of migrant children reveal how adults exercise authority over children's identities and autonomy, often at the expense of children's privacy and self-determination. Although the nature of the authority (family vs. State), the intention (personal exchange vs. security), and the immediacy of the impact may differ significantly, both practices highlight the urgent need for greater recognition of children's rights and a robust commitment to their rights, whether in institutional or family contexts⁷⁹.

In both cases, children are subjected to external systems of control that can shape, restrict, or even undermine their developing sense of self and autonomy.

⁷⁶ General Comment No. 25 of 2021, para. 68.

⁷⁷ See at: <https://www.unicef.org/eca/press-releases/joint-statement-coercion-children-obtain-fingerprints-and-facial-images-never>

⁷⁸ General Comment No. 25 of 2021, para. 68; cfr. UN Committee on the Rights of the Child, General Comment No. 20 on the implementation of the rights of the child during adolescence, 6 December 2016, CRC/C/GC/20, para. 46.

⁷⁹ E.g., Gergely Ferenc Lendvai makes seventeen recommendations to parents on how to protect their children's privacy online and to policymakers on how to improve existing regulatory frameworks: Lendvai, G. F., "Sharenting as a Regulatory Paradox. A Comprehensive Overview of the Conceptualization and Regulation of Sharenting" [online], *International Journal of Law, Policy and the Family*, vol. 38, n.º 1, 2024, ebae013, available at: <https://doi.org/10.1093/lawfam/ebae013>

Sharenting embeds children in digital narratives that can shape their sense of self and expose them to public scrutiny long before they can give consent. Children grow up under the constant gaze of an online audience, effectively becoming an extension of their parents' stories. However, legal frameworks and educational initiatives are beginning to address the concerns raised by sharenting. The promotion of media literacy – aimed at both parents and children – has become an important tool in empowering children to manage their digital presence. By raising awareness of the risks of online exposure and equipping children with the skills to protect their digital identities, these efforts facilitate a process of subjectivation.

The fingerprinting of migrant children places them within a system of state surveillance where their identities are often reduced to mere biometric data points. This practice not only reflects the power asymmetries inherent in migration control but also imposes a hierarchical relationship that positions the state as dominant over the child's developing subjectivity. In this context, the agency of migrant children is often undermined as they are subjected to systems of governance that can have lasting effects on their sense of identity and belonging. As Jacqueline Bhabha⁸⁰ highlights, these systems challenge children's ability to navigate their own subjectivation, often compelling them to conform rather than resist. In the case of biometric practices, while well-trained professionals guided by child-sensitive protocols can mitigate the dehumanising aspects of biometric data collection, such interventions rarely provide meaningful support for children's subjectivation. However, by ensuring that children are seen as dignified subjects with inherent rights rather than objects of control, adults can support children in resisting these objectifying systems. Although current biometric and security policies often treat children as passive objects within broader frameworks of surveillance, the involvement of empathetic, informed professionals can create spaces for children's subjectivation. By amplifying children's voices, protecting their interests, and advocating for their rights, these professionals foster an environment in which children are not only recognised as vulnerable but also as capable subjects who can actively shape their own identities.

Children can be both objectified and subjectified by and through the law. Legislation can serve as an instrument either to diminish children's autonomy, for example by reducing them to data points, or to enhance it by recognising them as subjects of rights.

In both cases examined in this contribution, the power imbalance between adults and children gradually decreases as children grow up and acquire new rights. Provisions such as Article 12 of the CRC are a tool to reduce asymmetries already in childhood.

However, the different settings in which sharenting and fingerprinting take place may affect the processes of children's subjectivation differently, with foreign chil-

80 Bhabha, J., *Child Migration and Human Rights in a Global Age*, Princeton, Princeton University Press, 2014.

dren at the border having less space to reshape their material and social environments through communicative acts, and consequently a higher risk of long-lasting objectification.

Recognising children's rights and supporting their implementation is essential to ensure that they are not simply passive objects of control but active participants in shaping their own identities, whether in personal, legal, or digital spaces.

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