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Criminalizing Migration, Rejecting Rights:

A Critical Discourse Analysis of Greece's adverse position towards migration and the work of human rights defenders.



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This thesis is worth 45 study points:

Abstract

International organisations, non-governmental organizations (NGO's) and human rights agencies have all expressed grave concern for the increasingly restrictive migration policies and the migration discourse in Greece. Two issues of particular concern are (1) how these policies lead to the endangering of the rights of those seeking asylum and resulting in the breach of international law, in particular of the principle of non-refoulement, and (2) how these policies contribute to criminalising migrants and human rights defenders (HRD's) (the International Organisation for Migration (IOM) 2021, Greek Council for Refugees (n.d.a.), Bathke 2020, Kallegris 2020, Council of Europe, Commissioner for Human Rights (CoECHR) 2021).

This study aims to contribute to the current debate on how the more stringent migration policies implemented by Greece's government and the increased use of pushbacks at the Greek border are criminalising migrants and HRD's. It will explore how the hegemonic power relations are being either reproduced or maintained in this discourse and to what extent they are challenging the human rights of migrants and HRD's.

This study uses as its framework Fairclough's method of critical discourse analysis (CDA) (Fairclough, 2015) and Wodak's concepts of discrimination and exclusion (Wodak, 2008). A critical discourse analysis was applied to nine texts, to review the Greek government's recent migration policies and use of pushbacks, how any potential breach of international law results in the criminalisation of migrants and HRD's and identify any infringements on their human rights. Drawing on the concepts of hegemony, ideology and power, the study shows how the power of discourse is determining the realities of migrants as well as the HRD's working to assist migrants.

The study shows how the Greek discourse on migration governance carries an ideological component related to the maintenance of power. By implementing restrictive policies, using deterrence measures and arbitrarily applying laws, the current migration discourse appears to emphasize ideas and policies which have the objective of keeping migrants out. This in turn severely restricts the work of HRD's and NGO's.

Key words: migration governance, human rights defenders, refugee crisis, hegemony, power relations, critical discourse analysis, border management, discrimination.

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List of Abbreviations

AI	Amnesty International
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CDA	Critical Discourse Analysis
CEAS	Common European Asylum System
CESCR	UN Committee on Economic, Social and Cultural Rights
CFR	Charter of Fundamental Rights of the European Union
CoE	Council of Europe
CoECHR	Council of Europe, Commissioner for Human Rights
CPT	European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
DHRD	Declaration on Human Rights Defenders
ECHR	The European Convention on Human Rights / The Convention for the Protection of Human Rights and Fundamental Freedoms
ECRE	European Council on Refugees and Exiles
EGHRD	European Guidelines on Human Rights Defenders
EU	European Union
GNCHR	Greek National Commission for Human Rights
HRD	Human Rights Defender
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IPA	International Protection Act
IOM	International Organisation for Migration
NGO	Non-Governmental Organisation
OHCHR	Office of the United Nations High Commissioner for Human Rights
OMCT	World Organisation Against Torture
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees

1 Introduction

1.1 Introductory Context

Migration is not a new phenomenon. However, due to the advancement in human mobility and globalization, the number of migrants and refugees are steadily rising (Martin, Weerashinge and Taylor 2014). The current global estimate is there were around 281 million international migrants in the world in 2020 (IOM, World Migration Report, 2022, p. 37). This equates to around 3.6 per cent of the world's population (Office of the United Nations High Commissioner for Human Rights (OHCHR), n.d.a.). Although those who have been displaced, such as refugees and internally displaced persons, comprise a relatively small percentage of all migrants, they are often the ones who are most in need of assistance and support.

Historically, European countries have not been significantly affected by migration compared to other regions (Castles, Miller & Den Haas, 2014). According to the United Nations High Commissioner for Refugees (UNHCR) (June 2019), most of the world's migrants originate from non-European countries and flee to neighbouring countries rather than to Europe. The majority of migrants who do arrive in Europe do so through the Eastern and Western Mediterranean routes, ending up mainly in Spain, Greece and Turkey (Frontex, 2020). Since World War II, Greece have been one of the most frequent immigration countries (IOM, n.d.a) with the Greece-Turkey border being a main point of border-crossing due to its geographical location (OHCHR, May 2016). Greece was, however, rarely the end-destination, it was for many the entry into Europe (IOM, n.d.a) and most of those migrating wished to transit through Greece and travel towards northern Europe.

After the so called "refugee crisis" in 2015, Greece has struggled to cope with the high influx of migrants arriving at its borders. Between January 2015 and March 2016, Greece has experienced an influx of approximately 1,000,000 migrants and asylum seekers which has put the country under extreme pressure (Mysen Consulting 2017). This represents the highest number of arrivals since 1945 (OHCHR, May 2016).

After the New Democracy won the governmental elections in Greece in July 2019, notable changes in the field of migration governance were made almost immediately (Sabchev, 2019, p.1). Within a month of being in power, the new government had closed down the Ministry of Migration Policy,

thereby suspending the issuing of social security numbers to forced migrants and introduced measures to strengthen Greece's sea and land border with Turkey and, as a priority, accelerated the process for migrant returns (Sabchev, 2019, p.1). The responsibilities of the former Ministry were transferred to the Ministry of Citizens Protection, a Ministry responsible for public order and security. The Ministry of Citizens Protection was given a mandate over a range of issues, including first reception and detention to asylum decisions and integration.

The shift towards securitization of migration governance in Greece could also be seen in the discourse of the new government's officials. The Alternate Minister for Migration Policy referred multiple times to migration as a problem. In his statement the announcement of measures ensuring public order and security was the main topic. In agreement with this rhetoric, the Alternate Minister referred to the town of Vathy on Samos, which is in close proximity to the island's "hot spot", as a 'besieged town'. In this way, refugees were effectively being presented as a threat to Greek society, rather than being viewed as people who actually escape war and persecution (Sabchev, 2019, p.1).

Greece has been heavily criticized for their approach to asylum procedures and the protection of the fundamental rights of asylum-seekers and refugees (Asylum in Greece: A Situation Beyond Judicial Control, ECRE, 2021). The unsuccessful attempt of the EU and Greece to establish clear and humane refugee policies means many are forced to remain in appalling conditions as they try to navigate the asylum process and access critical protection (Refugees International, 2020). Following the election of Kyriakos Mitsotakis as Greece's prime minister in 2019, the Greek government has, to varying degrees of success, attempted to reform Greece's migration policies (Hernández, September 2020). Mitsotakis announced he would implement "strict but fair" reforms to the current migration discourse including a more effective migration management and stricter border controls (Hernández 2020). The implications of the current migration governance in Greece have proven to be anything but fair. The increasingly restrictive legislation and an extensive use of pushbacks has left already vulnerable migrants in a situation of exclusion and discrimination with limited protection of their human rights.

Various policies and practices introduced by the Greek authorities have created considerable barriers for migrants seeking safety in Greece, including obstructing maritime search-and-rescue operations, summarily expelling people, and conducting violent, sometimes deadly, pushbacks on land and at sea. (Human Rights Watch, 2020, Refugees International, 2020, Panayotatos, 2022). The CoECHR identify the main areas of concern to include arbitrary arrests, arbitrary application of laws, restrictive policies, and an excessive use of pushbacks (Refugees International, 2020, CoECHR, 2020). The

coalition of Oxfam and WeMove Europe expressed its opinion that the reforms to Greece's asylum legislation in 2020 had prevented the country from complying with EU law. They stated that the new laws "*offers little chance of a fair asylum procedure.*" (Oxfam, 2020).

In addition, the increased use of both criminal and administrative sanctions by the Greek authorities is contributing to the criminalisation of migrants trying to enter Greece and HRD's operating in Greece (Council of Europe (CoE) 2010, UN Special Rapporteur on Human Rights Defenders, January 2022).

1.2 Research Questions and the Purpose of the Research

In today's political climate, migration plays an important role with regards to the issue of power and hegemonic values that strive at the expense of subordinate groups (Krzyżanowski, Triandafyllidou, & Wodak, 2018). Migrants are victims of a discourse characterized by an exclusionary and discriminating rhetoric of othering based on a politics of fear (Krzyżanowski et al., 2018, p. 2). This discourse assigns a priority to border management over human rights and its international obligations and contributes to a general lack of responsibility towards the enforcement of those rights.

The policies and practices implemented by Greek authorities in regard to migrants, including the increase in restrictive asylum procedures, the criminalising of migrants and HRD's, and the numerous reports on deterrence mechanisms being employed at the border, provide the background on which the research questions in this study have been formed. Therefore, this study aims to answer the following question and sub-questions:

How does the discourses rooted on the criminalisation of migration and its aid impact migrants protection and human rights defenders work leading to serious human rights violations?

In order to support the analysis conducted in this study and to answer the above research question, the following sub-question is included in the analysis:

To what extent are hegemonic power relations being maintained and reproduced in this discourse, challenging the human rights of migrants and HRD's?

By applying Fairclough's approach to CDA and Wodak's concepts of discrimination, othering and exclusion (Wodak, 2012), this study aims to contribute to the current debate on migration and asylum policies in connection with protecting HRD's and migrants by answering how the developments in Greek human rights discourse affect HRD's and migrants in Greece. It will look at how the new strict Greek law on asylum (L. 4636/2019, International Protection Act (IPA)) and regulations of non-governmental organisations (Law No. 4662/2020, 7 February 2020) contributes to criminalising migrants and HRD's, and to assess how the Greek authorities alleged use of pushbacks and arbitrary arrests may be in breach of international law (Expert Council on NGO Law 2020, UNHCR 2020).

Fairclough's approach to CDA combines a critique of discourse and an explanation of how that discourse figures within, and contributes to, the existing social reality as a basis for action to change that existing reality in particular respects (Fairclough, 2015, p.6). The reason CDA needs both critique and explanation, according to Fairclough, is because what drives CDA is the aim of changing the existing societies for the better and to do so, it is first necessary to gain a good understanding of them, including how discourses figures within them. Unless this understanding is obtained, we have no basis for knowing whether or not societies can be changed. By applying Fairclough's CDA, this study will keep as its focus power relations, ideologies and hegemony (Fairclough, 2015, p.6).

Using Wodak's concepts of discrimination, othering and exclusion we can explore exclusion in relation to citizenship and the implications on migrants and HRD's of Greece's migration discourse (Wodak, 2012). By applying this framework to Greece's asylum policies, the study will further explore the extent to which Greece's discourse on migration governance may be exclusionary. By exploring any gaps in the protection of the human rights of migrants and HRD's, both internationally and nationally, and in consideration of the rise of right-wing discourses which appears to be leading the migration governance in Europe and implementing a politics of fear (Wodak, 2015), this study is relevant in the field of human rights and contributes to the ongoing debate on the above topic.

In applying Wodak and Fairclough, it will be possible to explore how the Greek government's migration discourse produces power relations and may result in a disregard for and unacceptable damage to migrants' rights. Fairclough states that having power over people is not necessarily bad, but "having and exercising power over other people becomes open to critique when it is not legitimate, or when it has bad effects, for instance when it results in unacceptable and unjustifiable damage to people or to social life" (Fairclough, 2015, p.27).

1.3 Definitions

1.3.1 Migrants – an Umbrella Term

In any discussion on migration governance and migration discourse, it is important to define the terms *migrant*, *refugee* and *asylum seeker*, and to explain how they relate to each other. In this study, the term *migrant* is defined as:

“...someone who changes his or her country of usual residence, irrespective of the reason for migration or legal status” (United Nations Department of Economic and Social Affairs 2021).

A *refugee* is someone who:

“...owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality, and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it” (UNHCR, 1951, article 1 A(2)).

An *asylum seeker* is someone who:

“...has left their country and is seeking protection from persecution and serious human rights violations in another country, but who hasn't yet been legally recognized as a refugee and is waiting to receive a decision on their asylum claim” (Amnesty International (AI), n.d.a.).

Many migrants travel in mixed migration movements (UNHCR, n.d.a). The IOM defines mixed migration movements as:

“...complex population movements including refugees, asylum seekers, economic migrants and other migrants’. Unaccompanied minors, environmental migrants, smuggled persons, victims of trafficking and stranded migrants, among others, may also form part of a mixed flow.”

All people on the move deserve respect for their human rights and human dignity (UNHCR, n.d.a.). However, it should be noted that in international law, refugees are specifically defined separate from migrants (New York Declaration for Refugees and Migrant, UN General Assembly, 2016). The distinction recognises the refugee's situation in their country of origin as putting their life and safety in jeopardy should they return (UNHCR, n.d.a.).

This study will explore how Greek migration policies and the alleged use of pushbacks at their border affects all migrants, including asylum seekers and refugees. In this regard, the term migrant will be used as an umbrella term to include migrants, asylum seekers and refugees and no individual distinction will be made between the groups. It is important to note however, that there is a distinction between migrant and irregular migrant. An irregular migrant in the global context is a person who, owing to irregular entry, breach of a condition of entry or the expiry of their legal basis for entering and residing, lacks legal status in a transit or host country. In the EU context, an irregular migrant is a third-country national present on the territory of a Schengen State who does not fulfil, or no longer fulfils, the conditions of entry as set out in the Regulation (EU) 2016/399 (Schengen Borders Code) or other conditions for entry, stay or residence in that EU Member State (European Commission, n.d.a.).

1.3.2 Human Rights Defender

HRD's operate in every part of the world working at the local, national, regional and international levels. However, the majority of HRD's work at the local or national levels, working to promote human rights within their respective communities and countries (OHCHR). In addition to supporting victims of human rights violations, HRD's are essential in supporting better human rights governance and government policy and in contributing to the implementation of human rights treaties (OHCHR).

According to the OHCHR, a HRD is someone who:

“...individually or with others, act to promote or protect human rights in a peaceful manner. Human rights defenders are identified above all by what they do and it is through a description of their actions and of some of the contexts in which they work that the term can best be explained”.

The EU Guidelines on Human Rights Defenders (2010) defines HRD's as:

“...those individuals, groups and organs of society that promote and protect universally recognised human rights and fundamental freedoms. Human rights defenders seek the promotion and protection of civil and political rights as well as the promotion, protection and realisation of economic, social and cultural rights. Human rights defenders also promote and protect the rights of members of groups such as indigenous communities.”

As stated in the definitions above, human rights defenders are identified by what they do and the nature of their actions. A HRD acts to promote any human right on behalf of individuals or groups and seek to both protect and promote civil and political rights and to promote, protect and realize economic, social and cultural rights (United Nations Special Rapporteur on the Situation of Human Rights Defenders, n.d.a., OHCHR, n.d.a.). A HRD will address any human rights concern, including but not limited to, discrimination, torture, arbitrary arrests and detention (OHCHR). In this study, HRD's also refer to NGO's and the terms will be used interchangeably.

As it is the actions that are the main identifying feature, a wide range of people can be defined as a HRD. Anyone working on promoting human rights, whether a human rights lawyer, staff of NGO's working on humanitarian concerns, or persons educating communities on HIV/AIDS, falls under the definition of HRD as set out by OHCHR.

1.3.3 Migration Governance

The concept of governance refers to the process of decision making and the process by which decisions are implemented or not implemented (Mehraj & Shamim, 2020, p.1). Migration governance is defined by IOM as:

“The combined frameworks of legal norms, laws and regulations, policies and traditions as well as organizational structures (subnational, national, regional and international) and the relevant process that shape and regulate States' approaches with regard to migration in all its forms, addressing rights and responsibilities and promoting international cooperation.”
(IOM, 2019, p.2).

International migration represents one of the most obvious contemporary manifestations of globalization (Betts, 2011, p.1). In most policy fields involving trans-boundary movements across

borders, including climate change and international trade, individual states have come together, primarily through the UN system, to develop a range of joint international agreements (Betts, 2011). However, despite the inherently trans-boundary nature of international migration and the relationship of migration policies between nations, there is no formal international framework regulating a states' responses to international migration (Betts, 2011, p.1).

In 2015, the IOM developed a Migration Governance Framework to assist in defining what an international migration policy should look like. It sought to present, in a consolidated, coherent and comprehensive way, a set of dimensions of migration governance (three principles and three objectives) which, if respected and fulfilled, would ensure that migration is humane, orderly and benefits migrants and society (IOM, 2015, p.2).

The three principles are: 1) **Adherence** to international standards and fulfilment of migrant's rights, 2). **Formulating** policy using evidence and a "whole-of government approach, that is, an assessment on countries institutional, legal and regular framework related to migration policies and 3). **Engagement** with partners to address migration and related issues. Countries effort to cooperate on migration-related issues with other states. The three objectives are to: 1) **Advance** the socioeconomic well-being of migrants and society, 2) **Effectively** address the mobility dimensions of crises, and 3) **Ensure** that migration takes place in a safe, orderly and dignified manner (IOM, 2015).

1.4 Research Design and Organisation of the Study

To answer the research question, this study applies CDA both as a theory and as a method. By critically looking at the Greek national discourse on migration and the right-wing discourses which are on the rise in Greece, it will be possible to gain a deeper insight into the Greek migration governance and discourse and to evaluate the effect of both the discriminatory discourse and the discourse on the criminalisation of migrants and HRD's. Adapting the method of CDA to the study will allow for an opportunity to thoroughly examine the actual content on migration-related discourses and at the same time examine how the Greek government justifies the development and change in their migration discourses, how the UN and other organizations react to these changes in discourses, and the social context of these discourses (Bryman, 2016, P. 540).

This study is divided into seven main chapters. Chapter 1 introduces the main research topic, the research question, the purpose of the research, and provides definitions of key terms and concepts. It also provides an explanation as to how the study will contribute to the field of human rights.

Chapter 2 provides a comprehensive review of current literature and legal documents relevant to protecting migrants and HRD's. This includes literature on the topics of migration discourse (both international and Greek), the legal framework concerning migrants, the legal framework concerning HRD's, and international and national migration governance.

Chapter 3 presents Wodak's concepts of discrimination, othering and exclusion and Fairclough's CDA as the theoretical framework applied in the analysis of this study in chapter 5. This chapter also provides a deeper understanding of Fairclough's CDA and an explanation for why it was chosen.

Chapter 4 describes the methodological framework adopted in applying Wodak's concepts of discrimination, othering and exclusions and Fairclough's CDA. This chapter also explains how it will be applied in the analysis, samples of texts to be analysed, epistemological and ontological foundations, ethical considerations and positionality, and any challenges or limitations to the research.

Chapter 5 presents the actual analysis and its findings. The analysis focus will be on a critical discourse analysis of Greece's migration discourse and governance. CDA is applied to nine texts keeping the concepts of hegemony and power relations in mind.

Chapter 6 contains the conclusions drawn from the CDA performed in chapter 5 and any suggestions for further research.

Chapter 7 sets out any additional remarks.

2 Literature Review – An Overview of the Topic of Migration and Human Rights Defenders

2.1 Introduction

International critique relating to the issues of migration governance has highlighted more restrictive asylum policies in regards to both migrants and HRD's, border management and the increasingly discriminatory and exclusionary discourses in Europe (Marin and Spena 2016, UN Human Rights Council 2020, Fekete 2018, Schack and Witcher 2021). All these give rise to questions regarding Greece's proposed and implemented new migration policies and how these policies may affect migrants and HRD's. Existing literature presents the current challenges faced by migrants and HRD's which can restrict their movement and their ability to carry out their work, the relationship between governments and migrants and governments and HRD's, and the challenges with criminalisation as a result of deterrence practices (OHCHR, n.d.a., European Union Agency for Fundamental Rights, 2017/2018, AI, 2020).

The debate on the protection of HRD's and their right to carry out their work in a safe environment is an ongoing one (US: Mission to International Organizations in Geneva, March 24, 2022, European Commission, April 27, 2022). Cases of HRD's being criminalised by countries adopting laws and policies not in line with international and EU law or in arbitrarily applying laws is unfortunately becoming common. The case of Sean Binder and Sarah Mardini is a prime example of how governments use trumped-up charges against HRD's. More details of this case will be given later in this study.

This chapter 2 presents the current international and EU legal framework protecting migrants and HRD's before moving on to present relevant literature on border management and deterrence practices. The level of protection given to migrants and HRD's under Greek laws and policies will then be presented and how historically Greece's migration discourse has been developed.

2.2 The Human Rights of Migrants

Current legal instruments provide a comprehensive legal framework for the governance of international migration. The bodies of international law which provide the basis for national migration laws, policies and practice include international human rights law, international labour law and standards, international refugee law, international criminal law, international humanitarian law, international consular law, and international maritime law (OHCHR (n.d.a)).

International human rights law applicable to migrants is found in a variety of legal instruments. They include both general treaties establishing fundamental human rights and more specialised texts addressing specific migration issues, such as non-discrimination, or a category of persons, such as migrant workers. Migrants' rights have been recognized and developed at both international and regional levels (Ktistakis, 2013, CoE).

A comprehensive legal framework consisting of a large number of legal instruments exists for the protection of migrants and HRD's and for the governance of international migration. There are too many to be all included in this study therefore, only the most applicable have been reviewed. The key international instruments will be reviewed however, as Greece is a Member State within the EU, the main focus has been given to the European legal framework relating to refugees and migrants and the associated legal instruments concerning HRD's and NGO's.

2.2.1 Refugee Convention and the International Bill of Human Rights

The key international legal instruments pertaining to the rights of refugees are the 1951 Refugee Convention¹ and the International Bill of Human Rights².

The core principle of the 1951 Refugee Convention is the principle of non-refoulement. The principle is recognised under international human rights law and guarantees that no one should be returned to a country where they may be at risk of irreparable harm. Irreparable harm includes persecution, torture, ill-treatment or other serious human rights violations (OHCHR, 2019), *The principle of non-refoulement under international human right law*. The prohibition of non-refoulement is also

¹ The complete 1951 Refugee Convention can be retrieved at: <https://www.unhcr.org/3b66c2aa10>

² The international Bill of Human Rights can be read in full at: <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet2Rev.1en.pdf>

included in other legal instruments such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and regional instruments including the Charter of Fundamental Rights of the European Union (CFR).

The 1951 Refugee Convention sets out the definition of a refugee, the legal obligations of states for protecting refugees them, and the rights granted to persons who are applicable for and granted refugee status. It should be noted however, that regional HR treaties do have different and modified definitions of what constitutes a refugee as a response to the displacement crisis which is not covered by the 1951 Refugee Convention.

The International Bill of Human Rights consists of the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR) and its two Protocols.

The UDHR (1948)³ is a milestone document in the history of human rights (UN, Universal Declaration of Human Rights, n.d.a.). It was adopted by General Assembly resolution 217 A (III) of December 1948 as:

“...a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among, the peoples of Member States themselves and among the peoples of territories under their jurisdiction”. (Fact Sheet No.2 (Rev 1), The International Bill of Human Rights, OHCHR)

The UDHR sets out, for the first time, fundamental human rights to be universally protected and it has been translated into over 500 languages. The UDHR is widely recognised as having inspired the adoption of more than seventy human rights treaties, applied today on a permanent basis at global and regional levels with all containing reference to it in their preambles (UN, UDHR , n.d.a.).

Article 14 of the UDHR states (1) *“Everyone has the right to seek asylum and to enjoy in other countries asylum from persecution”*, and (2) *“This right may not be invoked in the case of*

³ The complete Declaration can be found here: <https://www.un.org/sites/un2.un.org/files/2021/03/udhr.pdf>

prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations”.

The ICESCR (1966)⁴ requires all State Parties to ensure men and women are granted equal rights to the enjoyment of all economic, social and cultural rights recognised in the Covenant (UN Human Rights, Office of the High Commissioner, 16 December 1966). The duties of each Party State towards refugees and migrants contained in the ICESCR was explained by the UN Committee on Economic, Social and Cultural Rights (CESCR) (CESCR, March 2017) as follows:

“As the international community is considering how to address the situation of people fleeing conflict and persecution from war-ridden countries and how to answer the challenges raised by migration flows, questions arise as to the range of economic, social and cultural rights to which the people concerned should be entitled in the countries through which they transit or in which they seek a safe haven and settle. Against that background, the Committee on Economic, Social and Cultural Rights wishes to recall the guarantees provided by the International Covenant on Economic, Social and Cultural Rights.” (CESCR, 2017, p.2)

The CESCR stated all people under the jurisdiction of the State concerned should enjoy the rights under the ICESCR and that this includes asylum seekers and refugees, as well as other migrants, even when their situation in the country is irregular. They went on to state:

“Any distinction, exclusion, restriction or preference, or other differential treatment on grounds of nationality or legal status, should therefore be in accordance with the law, pursue a legitimate aim and remain proportionate to the aim pursued. A difference in treatment that does not satisfy such conditions should be seen as unlawful discrimination prohibited under article 2 (2) of the Covenant.” (CESCR, 2017, p.2)

The CESCR also made it clear protection from discrimination cannot be made conditional upon an individual having a regular status in the host country and, due to the precarious situation, asylum seekers and undocumented migrants are at particular risk of facing discrimination in the Enjoyment of Covenants Rights (CESCR, 2017, p.2).

⁴ The complete Covenant can be found here: <https://www.refworld.org/docid/3ae6b36c0.html>

The ICCPR (1966)⁵ enables persons to enjoy a wide range of human rights, including those relating to freedom from torture and other cruel, inhuman or degrading treatment (Article 7) (UN Office of the High Commissioner, December 1966). Due to word limitations of this study, other relevant articles of the ICCPR will be referred to later in the study.

Where the international human rights frameworks approach seems to be safeguarding migrants rights, the European and Greek migration discourses appear to be going in a different direction. The main focus appears to be keeping migrants out of Europe by denying them access to the European continent using deterrence tactics and implementing strict asylum regulations (MacGregor, 2021, Human Rights Watch 2019).

2.2.2 The Charter of Fundamental Rights of the European Union

Article 2 of the Treaty on European Union (1992)⁶ provides that:

“The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail”.

The Charter of Fundamental Rights of the European Union (CFR)⁷ is European legislation pertaining to the political, social and economic rights of all persons living in the EU. The CFR was created in 2000, coming into force in 2009 by the signing of the Treaty of Lisbon, and has same value as EU treaties. Despite focusing on the personal freedoms and rights of EU citizens, some articles of the CFR pertain to migrants and are relevant to this study. These include, but are not limited to, Article 18 which guarantees a right to seek asylum, and Article 19 which guarantees protection in the event of removal, expulsion or extradition.

⁵ The complete Covenant can be found here: <https://www.refworld.org/docid/3ae6b3aa0.html>

⁶ The Treaty of the European Union can be read in full here: <https://eur-lex.europa.eu/collection/eu-law/treaties/treaties-force.html#:~:text=The%20EU%20treaties%20are%20binding,EU%20is%20founded%20on%20treaties>

⁷ The Charter can be read in full here: https://www.europarl.europa.eu/charter/pdf/text_en.pdf

2.2.3 The Dublin Regulation, the EU-Turkey Deal, and the Schengen Borders Code

In order to create a joint legal framework pertaining to migrants seeking entry into the EU, the EU has developed a range of legal instruments. The Dublin Regulation (or Dublin III Regulation) is a part that framework. The regulation applies to all EU Member States, including Iceland, Norway, Switzerland and Liechtenstein. According to the UNHCR, the Dublin Regulation is a:

“Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national” (UNHCR, n.d.a).

A third-country national is defined by the European Commission as:

“Any person who is not a citizen of the European Union within the meaning of Art. 20(1) of the Treaty on the Functioning of the European Union (TFEU) and who is not a person enjoying the European Union right to free movement as defined in Art. 2(5) of the Regulation (EU) 2016/399 (Schengen Borders Code)”.

The introduction of the Dublin Regulation resolved two fundamental issues. It established a common framework for all EU Member States where the first state the migrants enters the EU would be responsible for processing the application, the so-called *first-entry principle*. However, family unification, especially where minors are involved must be considered. If the migrant has documentation of visa in another EU Member State, this should take precedent over the first-entry principle. In addition, the first country of arrival has an obligation to take responsibility for the arriving migrants. This includes ensuring the migrant receives a personal interviews and free legal assistance if necessary.

Secondly, it allowed for only one state to process the asylum application (Høglund, 2017, p.43). Thus, if the migrant’s application for asylum was denied in one EU Member State, the Dublin Regulation prevented the migrant from applying for asylum in another EU Member State. Second and third entry countries can transfer back migrants to the first country of entry into the EU, if their first country of entry can be proven.

In response to the high influx of migrants into Greece and to alleviate the pressure on Greece's severely damaged economy, the EU and Turkey agreed the EU-Turkey deal in 2016 (European Council 2016). The principle behind the EU-Turkey deal was that Greek authorities should examine whether people arriving in Greece irregularly had a right to asylum in the EU. All "irregular" migrants arriving in Greece should be returned to Turkey (European Council March 2016) and for every irregular migrant returned, another migrant would be resettled in the EU. The objective of the EU-Turkey deal was to discourage illegal and treacherous travel between Turkey and Greece, while at the same time encourage a legal alternative (Høglund, 2017, p.73).

The EU-Turkey deal is by many viewed as deeply flawed and it is argued it raises several human rights and legal questions (AI 2017, Collett 2016). It is also argued the agreement has set a dangerous precedent by jeopardising the very principle of the right to seek refuge. The previous CoECHR, Nils Muižnieks warned the agreement is contrary to human rights standards and stated: "*The automatic forced return that the deal allows is illegal and will be ineffective*". (Human Rights Watch 2016, CoECHR 2016).

As will be described later, this has had a significant impact and been instrumental in the development of the Greece migration discourse and on the implementation of the asylum laws restricting migrants rights.

2.2.4 The Return Directive, the Asylum Procedures Directive, and the Reception Conditions Directive

The return and re-admission of irregular migrants in Europe has been a key priority for the EU institutions and the EU member states alike, including in the context of unsuccessful asylum claims. (Eisele, 2020, *The Return Directive, European Implementation Assessment*, European Parliament, p. I). The Return Directive (Directive 2008/115/EC, 2008)⁸ was adopted with the objective of ensuring the return of third-country nationals who do not have any legal grounds to stay in the EU is achieved through fair and transparent procedures and with respect for the fundamental rights and dignity of the people concerned (Eisele, 2020, p. I). These fundamental rights include the principle of non-refoulement and the prohibition on collective expulsion (Eisele, 2020).

⁸ The Returns Directive can be read in full here: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32008L0115>

The Asylum Procedures Directive (Directive 2013/32/EU, 2013)⁹ sets out the minimum standards on procedures in EU Member States for granting and withdrawing refugee status. The aim of the Asylum Procedures Directive is to coordinate procedural guarantees given during the asylum procedure and to uphold the quality of asylum decision-making in the Member States (UNHCR, The UN Refugee Agency, n.d.a). It also guarantees certain basic procedural guarantees including the right to a personal interview, the right to receive information and the right to appeal.

The Reception Conditions Directive (Directive 2013/33/EU, 2013)¹⁰ was enacted with the aim of ensuring common standards of reception conditions for migrants throughout the EU. It ensures that migrants have access to housing, food, clothing, health care, education for minors and access to employment (within a maximum period of 9 months). It provides particular attention to vulnerable persons, especially unaccompanied minors and victims of torture. Finally, it includes rules regarding detention of migrants and considers alternatives of detention in full respect of the fundamental rights (European Commission, Migration and Home Affairs, n.d.a.).

As will be shown, the above legal instruments implemented by the EU are of particular interest to this study as the new laws implemented by Greece have been criticised as being in breach of all three instruments (Refugees International, 2022). This will be explored further in chapter 2.6 (Greek context).

2.2.5 Other International and EU Legal Instruments

In addition to the above, a number of other international and EU legal instruments exist for the protection of the human rights of migrants. However, because of the word constraint of this study, except for a brief mention, details of these will not be provided. These include the European Convention on Human Rights (ECHR) (European Court of Human Rights, CoE, 1953), the Global Compact for Safe, Orderly and Regular Migration and the Global Compact on Refugees (Resolution A/RES/73/195, OHCHR, 2018), the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (CRMW) (UN General Assembly, Resolution A/RES/45/158, 1990), the New York Declaration for Refugees and Migrants (Resolution

⁹ The Asylum Procedures Directive can be read in full here: <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32013L0032>

¹⁰ The Receptions Conditions Directive can be read in full here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0033>

A/RES/71/1, UNHCR, 2016), and the Schengen Borders Code (Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016).

2.3 The Human Rights of Human Rights Defenders

Various laws and regulations exist regarding the protection of HRD's. Some of these laws were adopted as a result of the work done by civil society and in others due to work by state or international structures (Fernández and Quintana, 2011, p.3).

2.3.1 The Declaration on Human Rights Defenders

The Declaration on Human Rights Defenders (DHRD) (Resolution A/RES/53/144, OHCHR, 1998)¹¹, adopted by the General Assembly in its Resolution 53/144, is based on and incorporates human rights embodied in legally binding international instruments. The Declaration reaffirms rights that are vital to the defence of human rights, including, inter alia, freedom of association, freedom of peaceful assembly, freedom of opinion and expression and the right to gain access to information, to provide legal aid and to develop and discuss new ideas in the area of human rights (OHCHR, n.d.a.). The Declaration requires that states ; Recognize the value and important contribution of human rights defenders to peace, sustainable development and human rights; Respect human rights defenders on a non-discriminatory basis, protect them against any arbitrary action as a consequence of the legitimate exercise of the rights referred to in the Declaration, and ensure access to effective remedies in the case of violations and prompt and impartial investigations of alleged violations; and Reinforce their work by creating an enabling environment, through legislative, administrative and other steps, promoting public understanding of human rights, creating independent national institutions for the promotion and protection of human rights and promoting the teaching of human rights ((OHCHR, n.d.a.).

¹¹ The DHRD can be read in full here: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/770/89/PDF/N9977089.pdf?OpenElement>

2.3.2 Special Rapporteur for Human Rights Defenders

In April 2000, the UN passed Resolution E/CN.4/RES/2000/61¹² created the post of the Special Representative for Human Rights Defenders. The Special Representative, now Special Rapporteur is mandated to:

“seeking, receiving, examining and responding to information on the situation and rights of those who acting individually or in association with others seek to promote and protect human rights and fundamental freedoms; establishing cooperation and conducting a dialogue with governments and other interested stakeholders on the promotion and effective implementation of the declaration; recommending effective strategies to better protect human rights defenders and following up on these recommendations.” (Fernández and Quintana, 2011, p. 4).

The mandate was renewed in 2008 through Resolution 7/8¹³ but this time a Special Rapporteur rather than a Special Representative was appointed (Fernández and Quintana, 2011). In order to discharge of these functions, the Special Rapporteur presents annual reports to the Human Rights Council and the General Assembly on the situation on human rights defenders, including challenges related to the right to promote and protect human rights, conducts country visits, engages with human rights defenders and civil society and submits complaints to states where allegations of violations or abuses of the human rights of human right defenders have been put forward (*Mandate, Special Rapporteur on human rights defenders*, UN Human Rights, Office of the High Commissioner, n.d.a.)

As is clear from the initiatives taken by the EU and the Organisation for Security and Cooperation in Europe (OSCE), Europe is also putting focus on the protection of HRD's (Fernández and Quintana, 2011).

2.3.3 European Guidelines on Human Rights Defenders

The European Guidelines on Human Rights Defenders (2008)¹⁴ (EGHRD) was enacted to provide practical guidelines for enhancing EU action to support HRD's by supporting the UN Special Rapporteur on Human Rights Defenders and other regional mechanisms protecting HRD's. While

¹² The Resolution can be read in full at: <https://www.refworld.org/docid/3b00f21bc.html>

¹³ The Resolution can be read in full at: https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_8.pdf

¹⁴ The Guidelines can be read in full at:

https://www.ohchr.org/sites/default/files/Documents/Issues/Defenders/2008_EU_Guidelines_HRDefenders.pdf

the primary objective of the EGHRD is to address specific concerns regarding human rights defenders, they also contribute to reinforcing EU's human right policy in general (OHCHR, n.d.a.).

Unfortunately, Greece have long been under scrutiny for not respecting the rights of HRD's working to protect the human rights of migrants, and for implementing legislation that would seriously hinder the work of HRD's (UN Special Rapporteur on Human Rights Defenders, 2022).

2.3.4 The Expert Council on NGO Law

The Expert Council on NGO law was established by the Conference of International Non-Governmental Organisations (INGO's) of the CoE in 2008 (*Expert Council on NGO Law*, CoE, n.d.a.). It examines the situation of NGO's and laws which are applicable to NGO's in the CoE member states and in Belarus. It's work include monitoring legal frameworks pertaining to NGO's, as well as the implementation of such frameworks, preparing opinions and studies on the compatibility of national laws and regulations affecting the status and operation of NGO's with international standards and contributing to the development of rule of law and human rights standards through the participation in CoE intergovernmental standard-setting work and supporting the President of the Conference of INGO's (CoE, n.d.a.).

It is important to note that the EU draws a distinction between wanted and unwanted migrants and that this is evident through their migration governance.

2.4 Border Management

Migrants are facing serious barriers in their attempts to obtain asylum. Some of these barriers are integral to irregular migration, including dangerous border crossings and the risk of exploitation. In addition, migrants face state-made barriers in the form of migration control measures (Gammeltoft-Hansen, 2017). As a result, migrants are regularly denied access as states close their borders in the hope of shifting the flow of migrants to neighbouring countries.

Although all states have a right to control their borders and manage irregular movements, they should refrain from using excessive or disproportionate force and make sure the handling of asylum requests are done in an orderly manner (UNHCR, March 2020).

2.4.1 Frontex – European Border and Coast Guard Agency

The European Border and Coast Guard Agency (Frontex) was established in 2004 and tasked with border control for the EU in coordination with the board and coast guard agencies of Schengen Area member states.

Following the EU's migrant crises in 2015, Frontex's mandate was extended to include enhanced support for EU Member States in the field of migration management, the fight against cross-border crime, and search and rescue operations. It provides for a greater role for Frontex in returning migrants to their countries of origin, acting in accordance with decisions taken by the authorities of individual EU Member States.

Frontex is governed by Regulation (EU) 2019/1896 of the European Parliament and the Council of 13 November 2019¹⁵. The Regulation aims to:

“...establish a European Border and Coast Guard agency (Frontex) to: a) assure European integrated management at the EU's border, b) manage border crossings efficiently; and c) make the EU's return policy more effective as a key component of sustainable migration management. It aims to address migratory challenges and potential future threats at the borders, combat serious international crime, and ensure internal EU security while fully respecting fundamental rights and safeguarding free movement” (EUR-LEX).

On the basis of a Commission proposal, the Council may ask the agency to intervene and assist Member States in exceptional circumstances (European Commission, 2015).

Frontex has, however, been under scrutiny lately as accusations of failing to protect migrants against serious human rights violations at the border has emerged (Human Rights Watch, 2021). Eva Cosse, Western Europe researcher at human Rights Watch said:

“Frontex has repeatedly failed to take effective action when allegations of human rights violations are brought to its attention.”

¹⁵ The full Regulation can be found here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019R1896>

The European Anti-Fraud Office (OLAF) has launched an investigation against Frontex and the former head of Frontex, Mr. Fabrice Leggeri. According to OLAF reports, which were leaked to the media, Mr. Leggeri and other Frontex senior officials were aware of and covered up pushbacks by Greek authorities. As a result of the investigation, the European Parliament created a special working group on Frontex and started to investigate the allegations. The probe found that Frontex did not prevent violations of fundamental rights (European Parliamentary Research Service, 2021).

The alleged violations of fundamental rights and the possible role of Frontex have been closely followed up on by the Parliament and, in particular, by its Committee on Civil Liberties, Justice and Home Affairs (LIBE), which has, amongst other things, included the task of follow-up in the mandate of the Frontex Scrutiny Working Group (FSWG) (European Parliamentary Research Service, 2021).

Although Frontex is still subject to scrutiny by other EU bodies, such as the ECA, the European Ombudsman and OLAF, none of them have specifically looked into the allegations of Frontex involvement in fundamental rights violations. In June 2021, the ECA published its special report No°08/2021, entitled 'Frontex's support to external border management: where respect of fundamental rights was not discussed European Parliamentary Research Service, 2021). In its September 2021 draft conclusions, referring to the ECA special report, the Council said that it recognised the 'challenges posed by Frontex's new mandate', the need to improve the agency's operational response and the 'common integrated risk analysis' (Council of the European Union, Brussels, 2 September 2021, European Parliamentary Research Service, 2021, p.2).

In November 2020, the European Ombudsman opened an independent investigation into the implementation of the Frontex complaints mechanism which is used for reporting fundamental rights violations and the role and independence of the Frontex fundamental rights officer (European Parliamentary Research Service, 2021, p.2). The Ombudsman's conclusions revealed a number of shortcomings, including a very low number of complaints, a lack of transparency and a lack of cooperation between the fundamental rights officer and the EU Member States' national authorities (European Parliamentary Research Service, 2021, p.3).

In January 2021, the LIBE committee set up the Frontex Scrutiny Working Group (FSWG). The FSWG was tasked with addressing and continue investigating the 'serious allegations of pushbacks and the management concerns' regarding Frontex. This included investigating not only whether the agency was involved in violations of fundamental rights but also whether it was aware of violations

and did not act (European Parliamentary Research Service, 2021, p.9). The working group formally began work on 23 February. The FSWG mandate is quite broad and includes monitoring 'all aspects of the functioning' of Frontex, with a particular focus on fundamental rights compliance, correct application of the EU acquis and 'transparency and accountability of the agency towards the European Parliament' (European Parliamentary Research Service, 2021, p.9). The working group was asked to carry out its investigative work (including fact-finding missions, collection of documents, hearings of experts, etc.) for a period of four months, and then to present its findings, conclusions and recommendations in a written report. The FSWG collected documents from NGOs, national and international organisations and the Commission, including correspondence between the Commission and the agency's executive director. It also conducted a legal analysis of the nature and extent of Frontex's obligations in the context of joint maritime operations at the EU external sea borders (European Parliamentary Research Service, 2021, p.9).

The FSWG published its final report on 14 July 2021. Although the scrutiny group 'did not find evidence on the direct performance of pushbacks and/or collective expulsions by Frontex, the report clearly pointed to serious shortcomings European Parliamentary Research Service, 2021, p.10). It acknowledged serious allegations of fundamental rights violations had been 'consistently reported' by 'credible actors' both at national and international levels. It stressed Frontex's failure to take action in order to prevent or even reduce the risk of such violations, and it emphasized deficiencies in the Frontex monitoring and reporting system for fundamental rights violations (European Parliamentary Research Service, 2021, p.10). Finally, with regard to the Parliament's oversight, the FSWG concluded that Parliament had not been adequately informed; that confidentiality hampered Parliament's scrutiny, and that Mr. Leggeri's statements to Parliament 'did not reflect the knowledge he had at the time of his statements' (European Parliamentary Research Service, 2021, p.10).

As a response to the report Frontex said it:

“...is determined to uphold the highest standard of border control within our operations’ and to ‘further strengthen the respect of fundamental human rights in all our activities” (European Parliamentary Research Service, 2021, p.10).

2.5 Criminalisation of Migrants and HRD's

One of the objectives of this study is, by critically reviewing two of the new laws implemented by the Greek government, identify how Greece's migration discourse challenges the human rights of HRD's and migrants and how, by implementing these new laws, the Greek governments politicised attempts to curtail asylum.

The World Organisation Against Torture (OMCT) has criticized the Greek government for their treatment of HRD's and, in their statement released in January 2021, expressed a deep concern for the ongoing criminalization of HRD's and humanitarian organisations who are providing assistance and defending the human rights of migrants in Greece. They are urging the Greek government to immediately put an end to the criminalization of anyone showing solidarity with people on the move.

The criminalisation of migrants is not a new phenomenon and occurs in many parts of the world. The CoE released a statement in 2010 expressing grave concern regarding the increased use of criminal and administrative sanctions in respect of border and immigration control issues (CoE, Issue Paper, Criminalisation of Migration in Europe: Human Rights Implications, 2010, p.3). The consequences of such sanctions are especially detrimental to refugees when attempting to cross the border.

In *Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection*, 1997, Hathaway writes:

"...human rights abuse continue to force individuals and groups to flee their home countries, many governments are withdrawing from the legal duty to provide refugees with the protection they require."

Hathaway goes on to say that although the governments express a willingness to assist refugees as a matter of political discretion or humanitarian goodwill, in practice the situation is somewhat different as it appears they are committed to developing defensive strategies aimed at avoiding international legal responsibility towards migrants.

Comparing this statement, which was written 24 years ago, to the situation today, it appears not much has changed. When applying this scenario to the research question, it is clear the situation for migrants has not significantly improved. The Greek government is attempting, by passing and implementing

new restrictive asylum laws, to make it increasingly difficult for migrants to enter the country and to obtain asylum status.

2.5.1 Criminalisation

Dr. Carla Ferstman defines ‘criminalisation’ as:

“...the practice of state legislators to enact legislation which determines particular acts or omissions to be criminal law offences” (Using Criminal Law to Restrict the Work of NGO’s Supporting Refugees and Other Migrants in CoE Member States, 2019, p.5.).

Schack and Witcher provides another definition:

“...the social and political phenomenon by which a specific activity or social group is systematically targeted through judicial, bureaucratic, discursive, and other methods emanating primarily from the state, with the intention of ending that activity or disenfranchizing that group” (2020).

Marin and Spina when speaking about criminalisation in migration discourse uses the term ‘crimmigration’. Crimmigration suggests a connection between crime and migration in relation to public authorities’ responses to irregular migration (Marin & Spina, 2016). So, as with the definition by Ferstman this term also refers to criminal law mechanisms and sanctions being resorted to when managing migration flows.

Marin and Spina stated a consequence of the criminalisation of migrants is an increasing association in public opinion and in legal documents of irregular migrants being criminals, and the distinction between irregular and regular migration tending to overlap the distinction between criminality and non-criminality (2016, pp.149-150). In Greece, the authorities have been heavily criticised for using restrictive policies, often contravening international law, to criminalise migration (Refugees International, 2020). As migrant illegality is produced as an effect of the law and sustained through discourses (Marin & Spina, 2016, p.149), the criminalisation of migrants is highly relevant to the investigation of how Greece’s migration discourse challenges the human rights of migrants.

The United Nations Human Rights Council Report A/HRC744/42 (2020) has documented the increasing hostility toward migrants and civil society organizations that work on aid provision and human rights protection. According to the Report:

“In the past several years, a toxic narrative around the role of civil society organizations that provide humanitarian assistance or other services to migrants has taken root in many countries, propelled, among others, by nationalist politicians and far-right groups and media, stating that these organizations act as a pull factor for undocumented migrants. These narrative paints these organizations as inciting, aiding and abetting irregular migration, smuggling or even terrorism. Some civil society organizations that work with migrants have been accused of acting as a pull factor for migrants and assisting smuggler networks, including by government officials in public...This narrative has been able to take hold partly because of the criminalization of migration. Although the act of seeking asylum is lawful and crossing borders without authorization should be considered an administrative infraction at the most, the word “illegal” is commonly used to label asylum seekers, undocumented migrants or others in irregular situations. Once the act of migration is tarred as a crime, it is easy to label any group assisting these “criminals” as acting illegally itself.” (UN Human Rights Council, 2020, p.12).

HRD’s who are aiding border crossers in Europe have been subject to methodical criminalization through prosecutions and attempted prosecutions, extensive police harassment, public scapegoating, and the imposition of bureaucratic barriers (Schack and Witcher, 2020).

Schack and Witcher found in their research into the criminalisation of HRD’s in Greece that, despite the range of methods used to criminalize HRD’s, causal narratives within the literature tend to focus on cases involving legal criminal charges, such as in the case of Binder and Mardini (Reliefweb, 2021, AI 2021). Most of these cases are based on legal provisions from the European Council Facilitation Directive (2002/90/EC), which was created to tackle human smuggling, but which has facilitated the criminalization of HRD’s due to its ambiguous legal formulation. As a consequence, a dominant narrative within the literature is that the criminalization of HRDs aiding border crossers is caused by the unclear wording of the Facilitation Directive and the resulting public association between HRDs and human smuggling (Carrera et al 2018; Fekete et al. 2017, cited in Schack and Witcher, 2020).

Dr. Carla Ferstman (*Using Criminal Law to Restrict the Work of NGO's Supporting Refugees and Other Migrants in CoE Member States*, 2019) looks at the situation of NGO's which are carrying out humanitarian work related to refugees and migrants in Council of Europe (CoE) Member States and to which extent any law that criminalises NGO activity and the enforcement of such law impacts NGO activity.

The key findings of the study were the laws criminalising NGO activity and the enforcement of these significantly impact the work carried out by the NGO's and in so doing negatively affecting freedom of association and related human rights. The study also found that the laws are vague, lacked legal certainty, and are applied arbitrarily.

There appears to be an increasing trend of initiating criminal proceedings against NGO's or other private entities deploying rescue vessels using charges with no legal grounds (*Fundamental Rights Report 2019*, p.130, AI 2020).

The rapport from AI (2020) tells stories of the type of conduct that has seen HRD's being prosecuted and convicted, and it also shows other undue restrictions imposed on the HRD's by authorities. These stories constitute compelling illustrations of how HRD's are being criminalised across Europe.

2.5.2 Politicization of Migration

The term politicization, describes the action of turning all questions, issues and values into political decisions. Politization denotes the growing power of the state and thereby of the political actors who, in the process of competing for power over the state system, tend to politicize matters and issues that are of public-wide concern (Krzyżanowski et al., 2018, p.4). Politicization of migration has become a trend in the western world over the last 20 years especially in terms of the ideologization of related debates but also of making politics the key circumstance to effectively dedicate the public views on immigration (Krzyżanowski et al., 2018, p.5). This is also the findings of Grande, Schwarzbözl and Fatke (2019) which shows politicization has increased significantly since 1990s. Contrary to how migration was politically handled, motivated and managed for decades before (Parkin, 2013), the issue has recently become part of a populist agenda by politicians and political parties (Grande, Schwarzbözl and Fatke, 2019, Mezzanotti, 2020).

At the European level, existing legal obligations and commitments, for example in the field of asylum policy, have caused controversies among EU Member States and have met with domestic resistance

(Grande et al., 2019). Conflicts over immigration have become noteworthy in national elections and also had an impact on the political agendas of governments (Grande et al., 2019).

This politicised discourse appears to have increased the level of racism and exclusion experienced by migrants in society as the racist discourses are widespread (Jiwani and Richardson, 2011). Racism, as a social practice and as an ideology, manifests itself discursively, and thus through a range of discursive and material practices. Simultaneously, discriminatory opinion, stereotypes, prejudices and beliefs are produced and reproduced by means of discourse; and through discourse, discriminatory exclusionary practices are prepared, implemented, justified and legitimated (Wodak, 2012, p. 406). According to a report by the European Network Against Racism (2017), anti-migrant political discourses and exclusionary migration policies are having a disproportionate impact on migrants in terms of facing racist violence and discriminatory policies.

The findings of Grande, Schwarzbözl and Fatke (2019) shows that far right political parties tend to politicize migration discourse more intensely than other political orientations (including centre-right and centre-left).

Whereas politicization of migration discourse has served as a persuasion tool in order to obtain public adherence (hegemony), Grande, Schwarzbözl and Fatke's findings appear to show that the politicized issues become "constructed along political views and ideological imaginaries" (Krzyżanowski, Triandafyllidou, and Wodak, 2018, p.5), representing after all the interests of the prevailing or hegemonic political elite. As a result, it seems discrimination, marginalization, exclusion and the negative image portrayed of people on the move can all be attributed and legitimized in discourse (Reisigl and Wodak, 2001, p.43).

2.6 Greek Context

There seems to be discrepancies between the number of migrants registered as arriving in Greece during 2021 and the numbers the Greek Minister for Maritime Affairs has reported as being rescued by the coast guard the same year (Wallis 2022). The Greek Migration Minister Notis Mitarakis and UNHCR agreed that around 8,000 migrants arrived in Greece in 2021 – half by land and half by sea. However, the Greek Maritime Affairs Minister, Ioannis Plakiotakis, claimed 'more than 29,000' had been rescued by the Greek coast guard. The speculations then turned to what had happened to the 25,000 migrants who were unaccounted for and whether or not they could have been subjected to illegal pushbacks (Wallis 2022). Although the Greek coast guard have been repeatedly accused of using illegal pushbacks, the Greek government has continued to deny it (Wallis 2022).

Greece's approach to asylum regulations has been an issue of controversy for some time and it has been heavily criticised for its exclusionary and discriminatory policies (Human Right Watch 2019, Greek Council for Refugees 2020). In recent years, Greece has implemented laws pertaining to both migrants and NGO's which has been accused of depriving both migrants and HRD's of their fundamental rights and which instead are being used to criminalise them.

2.6.1 Laws on Asylum

Greece enacted a new law on asylum (L. 4636/2019) which entered into force on 1 January 2020. The law was amended in May 2020 introducing provisions which further weaken the basic guarantees for migrants in need of protection and which can lead to arbitrary detention of migrants and third country nationals. The law has been repeatedly criticised by national and international human rights bodies including the Greek Ombudsman, the Greek National Commission for Human Rights (GNCHR), UNHCR and civil society organisations, as inter alia an attempt to lower protection standards and create unwarranted procedural and substantive hurdles for people seeking international protection (European Council on Refugees and Exiles (ECRE), June 2020).

In addition to increasing asylum seekers' vulnerabilities the new law limits migrants fundamental right to seek asylum and to be protected from serious risk (Human Rights Watch 2019). The harsh, punitive measures introduced by the law have resulted in migrants not having access to the asylum procedure and being returned to Turkey or their countries of origin.

Human Rights Watch highlighted the following key concerns:

- The law increases the maximum duration of detention of migrants from three months to eighteen months. This means people who were not detained at their initial application for asylum can now be detained. In addition, it no longer allows for the automatic review of administrative detention decisions by a judge which will affect the rights of migrant to an effective remedy. EU law also stresses that a person should not be detained solely because they are seeking international protection, and requires states to provide judicial review of the lawfulness of detention.
- The bill allows the asylum claims of unaccompanied children to be processed under "accelerated" border procedures. The use of such procedures in national asylum systems cause

concerns about rushed and poor quality decision making, especially in complex cases. This regression from the current law, which provides for processing asylum claims from unaccompanied children under the regular procedure, would be contrary to the best-interest-of-the-child principle. It would also infringe on EU law, which requires giving asylum claims by unaccompanied children appropriate treatment that respects protections for children. In addition, the bill perpetuates the detention of unaccompanied children under the so-called “protective custody” regime, even though the European Court of Human Rights (ECtHR) has repeatedly determined that such detention violates children’s rights. (Human Rights Watch, 2021)

As a response to Turkey’s political ploy to send refugees into EU by opening their borders, Greece unlawfully suspended access to asylum. Although it was reported that the Greek government's decision to suspend asylum applications for a month was based on an EU emergency clause, UNHCR underlined that "Neither the 1951 Convention Relating to the Status of Refugees nor EU refugee law provides any legal basis for the suspension of the reception of asylum applications."(UNHCR 2020).

Migrants seeking refuge and dignified lives in Greece are faced with obstacles at every step of their journey. First, Greek authorities have managed to physically keep migrants away from Greece's shores. Second, the government has adopted laws and policies that undermine protections owed to asylum seekers. Third, it has withheld adequate integration support from those to whom it grants refugee status. At every phase, government measures to hamper civil society efforts and hinder asylum seekers' and refugees' access to essential support. In these ways, the government has created a patchwork of laws, policies, and practices that systematically close the space for asylum and refuge. Now, the EU's more active role and continued financial and technical support to Greece risks legitimizing these harms (Refugees International, 2020).

2.6.2 Laws on NGO’s

Greece have long been under scrutiny for not respecting the rights of HRD’s working to protect the human rights of migrants, refugees and asylum seekers, and also for implementing legislation that would seriously hinder the work of HRD’s (UN Special Rapporteur on Human Rights Defenders, 2022).

In the United Nations Special Rapporteur on the Situation of Human Rights Defenders, Michel Frost’s World Report on the Situation of Human Rights Defenders (2018) he states that while Greece

is generally respecting the rights articulated in the Declaration in law and practice, there is concern regarding a worrying trend towards restricting the rights of defenders who work to protect the right of migrants.

During the first half of 2020, several additional registration and certification requirements were introduced by the Greek parliament and the government pertaining to NGO's working with migrants (CIVICUS 2020).

Law No. 4662/2020, 7 February 2020 sets out the new requirements for the registration of NGO's which are working in the areas of asylum, migration and social inclusion. The law introduces a provision for an NGO registry which contains information not only about the organisation itself, but also about its members, employees and associates. According to Mr. Stelios Petsas, a Greek government spokesman, the new regulations help the government 'control the activities of hundreds of NGO's operating in Greece'. He claimed this was necessary as a number of NGO's supposedly helping asylum seekers operate in a 'faulty and parasitic manner' (CIVICUS 2020).

Article 58 of Law 4686/2020 further stipulates details on the legal requirements for NGO registration, making it clear only registered NGO's can operate in the field of asylum, migration and social integration (CIVICUS 2020).

2.6.3 Deterrence Practices

Today, restrictive migration control policies are the main response of the developed world to an increasing number of migrants. This has resulted in a distorted refugee regime both in Europe and globally – a regime which is based on the principle of deterrence rather than human rights protection (Gammeltoft-Hansen, 2017). Deterrence practices as means of curtailing migration flows is unfortunately becoming increasingly visible in the European migration discourse (Marin & Spena, 2017). According to Gammeltoft-Hansen (2017) restrictive migration control policies are today the main response of the developed world to rising numbers of migrants.

In Greece, a Syrian refugee was recently sentenced by a Greek court to 52 years in prison and fined 242,000 Euro for 'illegal crossing' into Greece and 'facilitating illegal entry' (Kjellmo Larsen & Gordon, 2021, The Greek Herald, 2021). As he arrived in Greece shortly after the Greek authorities had suspended asylum applications (Refugees International 2020, Kjellmo Larsen & Gordon 2021) and was therefore unable to seek asylum, he was not only refused his fundamental human right to

seek asylum under Article 14 of the UDHR, but also charged with the beforementioned crimes. His sentence was deemed scandalous by civil society institutions (ECRE, 2021). In *Criminalising the Right to seek Asylum* (Kjellmo Larsen & Gordon, 2021), the authors argued criminalisation of the right to seek asylum is the latest example of the Greek governments official dedication to employ deterrence policies. They argue this is further evidenced by the criminalisation of humanitarian aid workers working to assist migrants and the shameful conditions in which the migrant camps are maintained.

Prosecutorial Deterrence

Suspending the right to apply for asylum as in the case regarding the Syrian migrant, is a clear violation of International and EU human rights law. In addition to being in violation of Article 14 of the UDHR, the right to Asylum is guaranteed by Article 18 of the CFR. However, this is not the only time the Greek authorities has levied criminal charges against migrants. In 2021, a pregnant woman who set herself on fire was charged with arson (The Guardian 2021, Kjellmo Larsen & Gordon, 2021) and, in 2020, a father of a 6-year-old child who drowned when they were attempting to cross the Mediterranean and into Greece was charged with child endangerment (Law 360 2021, Kjellmo Larsen & Gordon 2021). In all these cases, the Greek authorities are using criminal and administrative sanctions, prosecutorial deterrence to deter migrants.

Pushbacks as Deterrence

Undermining the right to seek asylum is not new. In fact, and as has been demonstrated earlier in the study, the Greek Coast Guard has been performing systematic pushbacks of migrant boats since 2007 (Kjellmo Larsen & Gordon 2021) in addition to the pushbacks at the land border (Human Rights Watch, 2020, Refugees International, 2020, Panayotatos, 2022). From March 2020 to June 2021, up to 40,000 migrants were the victims of pushbacks and an over 2,000 lost their lives a result (Kjellmo Larsen & Gordon 2021). The use of pushbacks violates one of the main principles of the 1951 Convention, the principle of non-refoulement. (Kjellmo Larsen & Gordon 2021).

Deterrence through the Criminalisation of Humanitarian Workers

Whilst illegal pushbacks endanger migrants, throughout Europe, HRD's and ordinary citizens are being criminalised on the basis that their activity is facilitating irregular migration. Charges have also

included money laundering, membership of a criminal organisation, espionage, and improper use of documentation (Research Social Platform on Migration 2020, AI 2021).

Some humanitarian workers have also claimed to have been subject to falsified police reports seemingly supported by the fact that in almost every case, charges have subsequently been dropped or the accused acquitted (Kjellmo Larsen & Gordon 2021). Despite activist efforts to fight against criminalisation, the fear of being targeted by police have deterred many HRD's and others from assisting migrants. For those willing to take the risk, it makes HRD's more cautious in their work and it reduces their willingness to cooperate with local authorities and negatively affects the freedom of association (Kjellmo Larsen & Gordon 2021). More fundamentally, it has contributed to exposing migrants to more harm and risk, including as a result of a significant reduction in SARS activities in the Mediterranean in 2019 and 2020.

Poor Camp Conditions as Deterrence

There are strong indications that deterrence strategies are also being implemented through the management of refugee camps on the Greek islands. Being referred to as a living hell and 'the worst refugee camp on earth', the Moria camp had become the symbol of the moral failure of Europe.

Humanitarian workers and volunteers who had worked in the camp thought that camp conditions were intentionally kept poor to discourage prospective migrants coming to Greece:

"It is startling how the situation was bad then, and there were sounds of alarm you know, and now it's three or four or five times as bad. It just keeps on being this way, and it's not like there are steps taken to change the situation, rather there are steps taken to make it worse." (Kjellmo Larsen & Gordon 2021).

While infrequently openly admitted by Greek officials, Mitarakis recently remarked that the establishment of closed camps (camps with increased security and restricted access for NGOs, media personnel and others) are a fence for future events, and it certainly works as a deterrent (Kjellmo Larsen & Gordon 2021).

Systematic State-endorsed Deterrence Strategies

Greece's suspension of the right to apply for asylum was initially meant to end in April 2020 however, due to the Covid-19 it was prolonged until 18 May 2020. In response to Greece's suspension Ylva Johansson, EU Commissioner for Home Affairs, asserted that individuals in the European Union have the right to apply for asylum. It is a part of international law and cannot be suspended (Kjellmo Larsen & Gordon 2021) At the same time, Greece has been referred to as Europe's shield against migrants and offered 700 million Euros to help crack down on migrants.

Nevertheless, there is no international or EU law that allows countries to deny individuals the right to seek asylum. Suspending and, indeed, criminalising the right to seek asylum is the latest in a long line of apparent systematic deterrence policies employed by European and national state authorities.

3 Theoretical Framework - Critical Discourse Analysis and Discrimination

3.1 Introduction

This study aims to explore how Greece's strict discourse on migration governance may lead to the criminalisation of migrants and HRD's and how the increased use of pushbacks and other deterrence mechanisms at the border may be leading to serious human rights violations. In addition, the study will look at how hegemonic power relations are either maintained or changed as a result of that discourse. To achieve these aims, this study will base its theoretical framework on Wodak's concepts of discrimination, othering and exclusion in addition to Fairclough's method of CDA. Wodak's concepts of discrimination, othering and exclusion have been chosen as they directly tie in with the research questions for this study and, in combination with Fairclough's CDA, they will be applied to the migration discourse in Greece to establish how this discourse can lead to the exclusion of migrants. This will be done in relation to issues of power, hegemony and ideological preferences as defined by Fairclough (2015).

This chapter is divided in two parts. First, the concepts of discrimination, othering and exclusion as defined by Wodak will be presented (Wodak, 2012), after which Fairclough's approach to CDA will be presented. For this study Fairclough's dialectical relational approach will form the basis of the framework.

3.2 Wodak's Concepts of Discrimination, Othering and Exclusion

Wodak stated in *Discrimination via Discourse: Theories, Methodologies and Examples*, that:

“...the starting point for a discourse analytical approach to the complex phenomenon of discrimination is to realize that racism, as a social practice and as an ideology, manifests itself discursively and thus through a range of discursive and material practices” (2012, p.406).

In *Identity, Belonging and Migration* (Delanty, Jones and Wodak, 2011), Wodak talks about discrimination in language and what she calls “Discursive Dimensions of ‘Inclusion and Exclusion’” (p.54, 2011). She argues discriminatory acts can manifest themselves in all levels of language and that exclusion is very often linked to power and that therefore marginalized groups are the ones who tend to be discriminated against. She also states these discriminatory acts may be both intentional and non-intentional (p.54, 2011). An example of intentional discriminatory acts is when discriminatory opinions, stereotypes, prejudices and beliefs are produced and reproduced by means of discourse; and through discourse, where the discriminatory exclusionary practices are prepared, implemented, justified and legitimated (Wodak 2012, p.406, Reisigl and Wodak, 2001). In the analysis part, these concepts will be applied to the texts which are being critically looked at using CDA, especially how exclusion is linked to power and how in Greece this becomes relevant as the government, by passing discriminatory policies and laws are discriminating against the migrants and HRD's.

The political scientist Anton Pelinka states populism simplifies complex developments by looking for a ‘culprit’. He argues that:

“As the enemy – the foreigner, the foreign culture - has already succeeded in breaking into the fortress of the nation state, someone must be responsible. The élites are the secondary ‘defining others’, responsible for the liberal democratic policies of accepting cultural diversity. The populist answer to the complexities of a more and more pluralistic society is not multiculturalism...right-wing populism sees multiculturalism as a recipe to denationalize one's own nation, to deconstruct one's people” (Wodak, 2021, p.8).

Far-right populist rhetoric relies on the creation of a distinct divide which aim at separating the people of a country into ‘the people’ and ‘the elites’ (Wodak, 2021). This is often done within a specific

narrative of threat and betrayal, accusing the so-called ‘establishment’ of having intentionally neglected ‘the people’ to further their own cause (Wodak, 2021, p.8). By doing this, scapegoats are constructed – *others* who are to blame for all our troubles. These ‘others’ are often based on traditional collective stereotypes and images of the enemy. The definition of ‘the other’ will depend on nationality. The ‘other’ can be Jews, Muslims, capitalist, socialist or migrants (Wodak, 2021, p.8). Although great differences exist within the debate on far-right populism, three central concepts can generally be agreed on. First, the notion of ‘the people’ is a crucial feature. This notion is conceptualized as a ‘heartland’ placing ‘the people’ as a central community (Taggart 2019 in Wodak, 2021, p.33). Second, most scholars argue, this heartland is primarily opposed to ‘others’ including minorities and immigrants. The concept of the heartland implies an inward – looking orientation and the exclusion of the vilified ‘other’ (Wodak, 2021, p.33). Third, populism can be seen as incorporating a distancing dynamic (Reisigl, 2013, p.159 in Wodak, 2021, p.33).

The public management of ‘inclusion’ and ‘exclusion’ via a range of policy papers and laws is a question of ‘grading’ and ‘scales’, ranging from explicit legal and economic restrictions to implicit discursive negotiations and decisions. It is assumed ‘inclusion / exclusion’ of, and related discriminatory practices against, migrant groups change due to different criteria of how insiders and outsiders are defined in each instance (Wodak, 2012, p.406).

So, having a specific migrant status, for example, may serve as a basis in for exclusion (Wodak, 2012, p.406). According to Krzyzanowski (2018), with regard to the refugee crisis, a difference has been detected in the attitudes towards openness and inclusion, with increased hostility towards the asylum seeker. The continuous exclusionary rhetoric of othering, fuelled by the resurgence of right-wing populist and nationalistic, as well as nativist agendas in both Europe and beyond, emphasise an ethnonationalist politics of fear (Wodak, 2015), especially regarding immigrants and asylum seekers. Migrants and asylum seekers are easily a target of stigmatizing political and media discourses and practices, which not only contributes to a shift in public moods, imaginaries, or political preferences, but often also results in outright physical violence toward the incoming migrants (Krzyzanowski et al., 2018, p.2).

The use of certain labels manifests the fluidity of definitions and membership categories. Recent research on the British press, for example, has illustrated that the semantic concepts of ‘migrant’, ‘refugee’ and ‘asylum seeker’ have become conflated and that all of these concepts are sometimes used in contemporary media to label all ‘foreigners who are not welcome’, always defined anew in a

context-dependent way. Such multifaceted processes necessarily call for an interdisciplinary approach which integrates historical, socio-political, socio-psychological and discourse analytic approaches in a more general problem-oriented framework (Wodak, 2012, p.407).

According to Reisigl and Wodak, racism / discrimination / exclusion manifests itself discursively: ‘racist opinions and beliefs are produced and reproduced by means of discourse...through discourse, discriminatory exclusionary practices are prepared, promulgated and legitimized’. The construction of in-groups and out-groups necessarily implies the use of strategies of positive self-presentation and the negative presentation of others (Wodak, 2012, p.408).

Finally, according to Wodak, powerful elites frequently justify exclusion in various ways. Reference is then made to status, belonging, ethnicity or gender. By discursively creating new topologies, modern and global forms of discrimination and exclusion can, for example, be symbolised by somebody having or not having a passport to enter countries of their choice. In this way, laws and discourse concerning citizenship become a legal means of inclusion or exclusion (2012, p.407).

In *Discourse and Discrimination* (2001), Wodak and Reisigl presents a discourse-historical case study of the ‘anti-foreigner petition’ which was initiated in Austria in 1992 and which proposed very severe political measures to ‘curb’ immigration. In the book and within the framework of CDA, it critically analyses the discriminatory text of the petition and its official rationale for implementing it. In this study, I will draw a parallel to the ‘anti-foreigner’ petition when analysing the new laws and policies proposed and implemented by the Greek government and, as Wodak, I will explore to what extent, if any, the proposed policies are both discriminatory and how they affect the life of both the migrants and the HRD’s.

In *The Politics of Fear* (2021), Wodak writes about the normalization of far-right discourse and how this type of populism is becoming mainstream:

“Strategies that politicians deploy to embrace that opportunity (capitalizing on anxiety) can be- and are- different, but one thing needs to be clear; the policy of mutual separation and keeping one’s distance, building walls instead of hot lines for undistorted communication...lead nowhere but into the wasteland of mutual distrust, estrangement and aggravation.” (Bauman 2016, 17, as quoted in Wodak 2021).

3.3 Critical Discourse Studies

Critical discourse studies (CDS) are a transdisciplinary, text-analytical approach to critical social research (Fowler et al. 1979, Wodak & Meyer 2016, Hart and Cap, Contemporary Critical Discourse Studies, 2014). It is not confined to any specific methodology or specific area of analysis but, rather, CDS is a variation of methods, dealing with different data and applying a broad base of methodologies sourced from across the humanities, social and cognitive sciences (Hart and Cap, 2014, p.2). It is important to note that CDS does not attempt to provide one method or theory. Rather, it is a diverse method of study where its content is derived from different theoretical backgrounds all aimed at different data and methodologies (Wodak & Meyer, 2016, p.5).

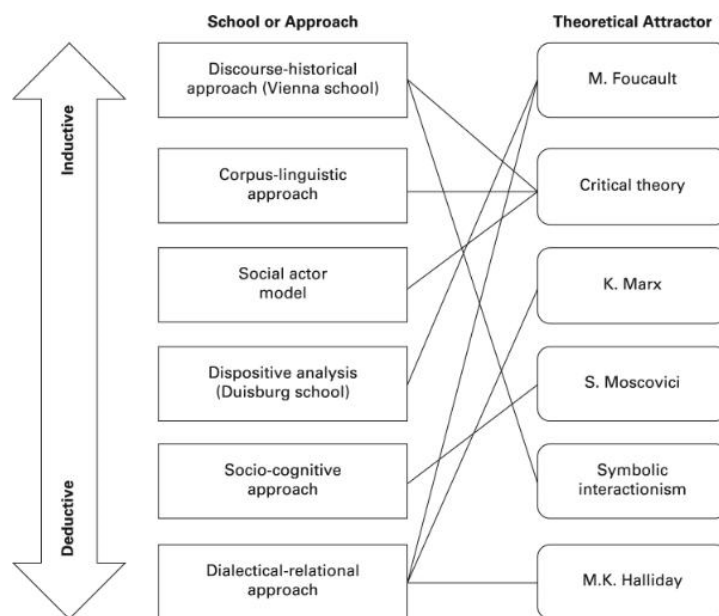


Figure 1. Overall research strategies and theoretical background

As the fields in which CDS is being used are so different, it follows the meaning of certain terms within CDS means different things to different researchers (Hart and Cap, 2014). Discourse, for example, will have a different meaning depending on context. That is linguistic, historical, social or situational. As a practise, discourse also involves both cognitive and linguistic or other semiotic, including audio and visual, dimensions. Functionally, discourse is used to represent, evaluate, argue for and against, and ultimately to legitimate or delegitimate social actions (Hart and Cap, 2014). As a result, discourse is socially constitutive as well as socially conditioned (Fairclough and Wodak, 1997; Wodak, 2011 quoted in Hart and Cap, 2014). This means discourse is shaped by the situations,

institutions and social structures which surround it and at the same time discourse itself constitutes these situations, institutions etc., as well as the social identities and relationships between their members/participants. In respect of the latter, discourse functions as creating, sustaining and/or transforming the social status quo (van Dijk, 2011).

Since this dialectical relationship between discourse and social reality is quite evidently complex, different researchers in CDS focus on different aspects of this relationship, working at different locations on the continuum that links the 'micro', that is, linguistics, with the 'macro', that is, the social (Lemke, 1995; Benke, 2000; quoted in Hart and Cap, 2014). Some researchers are, for example, more concerned with the macro level, that is social structures that facilitate or motivate discursive events whilst others focus on the micro level, looking at particular chunks of language that make up these events. These preferences are, of course, never mutually exclusive but are a matter of analytical emphasis.

Methods of studying discourse are just as diverse as the different interpretations of it and depends naturally on the domains and dimensions of the field or discourse that is being studied. One definition of discourse which has become popular among CDS researchers is:

“Language used in speech and writing- as a form of ‘social practice’. Describing discourse as social practice implies a dialectical relationship between a particular discursive event and the situation(s), institution(s), and social structure(s), which frame it: The discursive event is shaped by them, but it also shapes them. That is, discourse is socially constitutive as well as socially conditioned- it constitutes situations, objects of knowledge, and the social identities of and relationships between people and groups of people. It is constitutive both in the sense that it helps to sustain and reproduce the social status quo, and in the sense that it contributes to transforming it. Since discourse is so socially consequential, it gives rise to important issues of power. Discursive practices may have major ideological effects- that is, they can help produce and reproduce unequal power relations between social classes, women and men, and ethnic/cultural majorities and minorities through the way in which they represent things and position people” (Wodak & Meyer, 2016, p.6).

Discourse, when defined in its broadest sense, includes talk, text and action as well as more broadly circulating narratives, sets of beliefs and ways of seeing the world (Anderson & Holloway, 2018, p.3). It can therefore be argued discourse is a multifunctional phenomenon and that discourse can be

used as a vehicle for making meaning, doing things or both (Anderson & Holloway, 2018). It follows then that depending on the context to which discourse is being applied, the meaning or understanding of discourse may differ. This can include, but are not limited to a linguistic, historical, social or situational context (Hart and Cap, 2014). As a practise, discourse also involves both cognitive and linguistic or other semiotic, including audio and visual, dimensions (Hart and Cap, 2014, p.1). Functionally, discourse is used to represent, evaluate, argue for and against, and ultimately to legitimate or delegitimize social actions (Hart and Cap, 2014, p.1). As a result, discourse is socially constitutive as well as socially conditioned (Fairclough and Wodak, 1997; Wodak, 2011 quoted in Hart and Cap, 2014). This means discourse is shaped by the situations, institutions and social structures which surround it and at the same time discourse itself constitutes these situations, institutions etc., as well as the social identities and relationships between their members / participants. In respect of the latter, discourse functions as creating, sustaining and/or transforming the social status quo.

When applying CDS in this study will attempt to show how the Greek policies are either sustaining and/or transforming the social status quo. That is, whether the proposed and the newly implemented laws and policies are repeating the current discourse or whether they differ substantially as to say they are changing the discourse on migration and human rights both in Greece specifically and in Europe generally.

Discourse analysis can be defined as:

“...a particular way of talking about and understanding the world or an aspect of the world”
(Jørgensen and Philips, 2002, p.1).

Critical discourse analysis (CDA) derives from a critical theory of language which looks at the use of language as a type of social practice (JANKS 1997). All social practice is tied to particular historical contexts and are the means by which existing social relations are reproduced or contested and different interests are served (JANKS 1997). It looks at what position the text takes and at whose interests are served and whose interests are rejected by taking this position. In addition, it looks at how the position of the text has consequences on the discourse of power. Where the discourse analysis is seeking to understand how discourse is involved in relations of power, it is called *critical* discourse analysis (JANKS 1997).

3.2.1. Fairclough's Approach to Critical Discourse Analysis

CDA adopts an interdisciplinary framework while aiming at understanding social interactions. It specifically refers to a critical linguistic approach taken by many scholars. One of the main components of CDA is it takes language as a power resource which influences both ideology and socio-cultural change (Foucault, 2002, Mezzanotti, 2021).

As stated above, the analysis part of this study is based on Fairclough's framework of CDA. Fairclough's model of CDA is based on the assumption that every social process is affected not only by social relations, identity and culture, but also as a product of human semiosis, which includes all forms of meaning-making in social contexts in addition to language, such as visual representation and gestures (Wodak and Meyer, 2015, p.122). That means the application of CDA aims at understanding the underlying ideological assumptions of a given discourse, assuming that discourse is in itself a social practice that constitutes the discursive nature of power (Fairclough, 2015). As opposed to Wodak who uses a discourse-historical approach and van Dijk who uses a socio-cognitive approach, Fairclough uses a dialectical-relational and critical approach. (Jahedi, 2014, Wodak and Meyer 2016, p.18). In Fairclough's approach, the emphasis is on the power which lies *behind* the discourse, that is how people with power contribute to shaping the order of discourse as well as order in general (Language and Power, 2015). It also puts the emphasis on ideologies rather than just persuasion and manipulation (2015, p.3). Fairclough's approach to CDA sets as an objective to raise people's consciousness of how language contributes to the domination of some people by others, as a step towards social emancipation (2015, p.3).

CDA combines critique of discourse and explanation of how it figures within and contributes to the existing social reality, as a basis for action to change that existing reality in particular respects (2015, p. 4). This, according to Fairclough, is the essence of CDA and what distinguishes it from other approaches to CDA. It doesn't just critique a discourse, it also explains how it relates to other elements of the existing reality (2015, p.4). Fairclough states it is necessary to do both as the driving force behind CDA is the aim of changing existing societies for the better and, in order to do so, a comprehensive understanding of these existing societies, including how discourses figure within them is required. If such understanding is not possessed, then whether or not they can be changed, or in what ways they may be changed or how that change will come about will not be known (2015, p.4).

Fairclough's CDA, as presented in "Language and Power", has three interconnected parts: (1) normative critique of discourse, leading to, (2) explanatory critique of aspects of existing social reality in terms of dialectical relations between discourse and other social elements, as a basis for transformative action, and (3) to change existing reality for the better (2015, p.47). As explained above, Fairclough's approach is a *dialectical-relational* approach, however, to understand what this entails, one must understand the concept of *semiosis*.

The relationship between society and language is at the core of Fairclough's CDA and two other concepts which are vital to CDA are *ideology* and *hegemony*. Ideologies, as described by Fairclough (p.218, 2003) are representations of aspects of the world which contribute to establishing and maintaining relations of power, domination and exploitation. They may be enacted in ways of interacting (and therefore in *genres*, see more on genres in methodology part) and inculcated in ways of being or identities (and therefore in *styles*, more on this in methodology). Analysis of texts (with emphasis on *assumptions* in texts) is an important aspect of ideological analysis and critique, provided it is framed within a broader social analysis of events and social practices.

Ideology is demonstrated by the linguistic exercise of power in discourse. This can be manifested by common sense or through assumptions of a given discourse in which discourse subjects interact (Fairclough, 2015). In *Analysing Discourse* (2003, p.45 and 218) Fairclough presents hegemony as a concept central to the version of Marxism associated with Gramsci. He describes hegemony as a particular way of conceptualizing power and the struggle for power in a capitalist society (p .218. 2003). This, in turn, emphasises how power depends on consent or acquiescence rather than just force and the importance of ideology. Discourse, including the dominance and naturalization of particular representations (e.g. of 'global' economic change) is a significant aspect of hegemony, and struggle over discourse of hegemonic struggle.

Fairclough's model of CDA. This study's focus on hegemonic power relations will provide an understanding of ideological preferences in the Greek migration discourse and explore how this affects migrants and HRD's and contributes to carrying on the discriminatory discourse on migration and migrants' rights and the criminalisation of HRD's. The ideological work of text is connected to the concept of hegemony. Fairclough presents hegemony in relation to the version of Marxism, connected to Antonio Gramsci, as described earlier. Power can be won and exercised only in and through social struggles in which it may be lost (Fairclough, 2015, p. 73). The question is who has access to which discourses, and who has the power to impose and enforce constraints in access (Fairclough, 2015, p. 89) The hegemonic struggle between political forces can be seen as partly a contention over the claims

of their particular visions and representations of the world to having a universal status (Fairclough, 2003, p. 45).

4 Methodology - CDA as a Method

4.1 Fairclough's Three-Dimensional Model of Critical Discourse Analysis

The central goal of CDA is to establish a connection between the use of language and social praxis. The focus is on the role of discursive practices in maintaining the social practice, and the occasions where the use of language is a part of the order of discourse (Winther Jørgensen & Phillips, 1999, p. 82).

According to Bryman, CDA “...emphasises the role of language as a power resource that is related to ideology and socio-cultural change” (Bryman, 2016, p.540). He also states language is the method used to ask questions and the method through which questions are answered (Bryman, 2016).

As stated earlier, Fairclough's method of CDA will, in addition to being part of the theoretical framework also be used as the methodological framework in this study. It should be noted that CDA has been chosen for its usefulness when disclosing power structures within a social reality. A central part to Fairclough's method of CDA is that discourse is an important social praxis. This means it both reproduces and changes knowledge, identities and social relations including power relations and, at the same time, it is shaped by other social practises and structures (Jørgensen and Philips, 2002, p.65). In other words, all social practice is connected to an exact/particular historical context and are the means by which existing social relations are reproduced or contested and different interests are served (Janks, *Critical Discourse as a Research Tool*, 1997). The ultimate goal of CDA is to establish the connection between language and social praxis and its aim is to explore the relations between power/hegemony and society through the study of language (Regmi, 2017, p.8).

Fairclough's model of CDA consists of three inter-related dimensions of discourse. The first dimension, the actual object of analysis, relates to the text which is to be analysed, this can be verbal, visual or both verbal and visual texts (Janks, 1997), Fairclough, 2015, p.58). The second dimension is the process in which the texts are being produced and how the texts are being received by human subjects. Producing is understood to mean writing, speaking or designing and receiving is understood to mean reading, listening and viewing (Janks, 1997). The formal properties of the text are according to Fairclough made up of properties that can be regarded from the perspective of discourse analysis on the one hand as *traces* of the productive process and as *cues* in the process of interpretation on the

other (p.57, 2015). Fairclough states the interplay between these properties and MR's or 'members resources' and refers to information people have in their heads such as knowledge of language, representations of the natural and social worlds in which they live, values, beliefs, assumptions and so on and which they draw upon when they either produce or interpret texts, is an important property of the productive and interpretative processes (Fairclough, p.57). The third dimension is the socio-historical conditions which govern the processes of production (Janks, 1997, Fairclough, 2015, p.57-58).

The term discourse is integral to Fairclough's method of CDA (Fairclough, 2015, p.57). As different theories use slightly different definitions of this term, to understand Fairclough's method, it is important to understand his definition. Fairclough states a text is a product of the process of text production rather than the process itself (Fairclough, 2015, p.57). The term discourse as defined by Fairclough refers to the whole process of social interaction of which a text is just a part (Fairclough, 2015, p.57). In addition to the text, this process includes the process of producing the text and the process of interpreting the text (Fairclough, 2015, p.57).

According to Fairclough, every instance of language use is a communicative event consisting of three dimensions; it is a *text* (speech, writing, visual image or a combination of these); it is a *discursive practice* which involves the production and consumption of text; and it is a *social practice* (Jørgensen & Phillips, 2002, p.68). Figure 2 below represents Fairclough's three-dimensional model of CDA and his approach to conducting empirical research on communication and society.

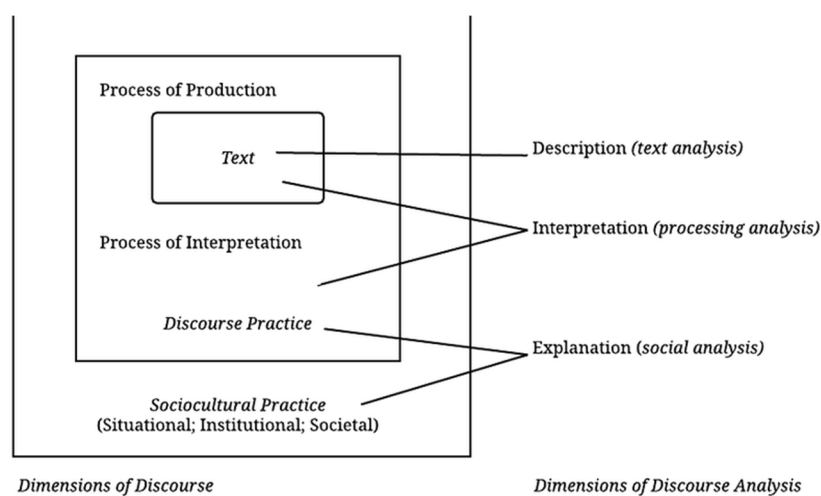


Figure 2: Fairclough's three-dimensional model

All three dimensions should be covered in a specific discourse analysis of a communicative event (Jørgensen & Phillips, 2002, p.68). First, the properties of the text should be analysed. This is the description phase. In this phase, one looks for the specific vocabulary, grammar and textual structures are used to establish what experiential, relational and expressive values the vocabulary and grammar have (Fairclough, 2015, p.128-153). The second phase is the interpretation and production phase, this phase is connected to the discursive practice. This phase looks at text and context. What existing discourses are being drawn upon by the authors to create the text and what pre-existing discourses are being drawn upon by the interpreters when consuming and interpreting the text (Fairclough, 2015, p.154-172, Jørgensen & Phillips, 2002, p.69). The final phase is the explanation phase (Fairclough, 2015, p.172-176 or the social practice (Jørgensen & Phillips, 2002, p.69). The objective of the explanation phase is to portray a discourse as part of a social process, as a social practice, showing how it is determined by social structures and what reproductive effects discourses can have on those structures, sustaining them or changing them (Fairclough, 2015, p.172).

4.2 Sample

A central area of interest in Fairclough's CDA is the investigation of change. Fairclough focuses on this through the concept of *intertextuality*, that is how texts draw on discourses and elements of other texts. It is by combining elements from different discourses that language use can change the individual discourses and thereby, also, the social and cultural world (Jørgensen & Phillips, 2002, p.7). Bryman state the notion of intertextuality is to draw attention to connections between texts so any text being analysed is considered in relation to other related texts (2016, p.540).

In this study, Fairclough's method of CDA will be used in the analysis of texts relating to the Greek migration discourse, including the implementation of the new Greek laws, potential use of pushbacks and any criminalisation of migrants and HRD's resulting from this. The aim is to establish whether this is either contesting or reproducing the discourse on criminalisation of migrants and HRD's and to establish how, if at all, Greece is breaching international and EU laws relating to HRD's and migrants.

Documents in this study have been gathered from a variety of sources, including the UN, the CoECHR and the Greek government, relating to the ongoing debate on migration governance and criminalisation of migrants and HRD's and NGO's. In order to answer the research questions, the focus has been on the new proposed Greek laws on NGO's and asylum and the international

community's comments to those laws as well as the accusations of the use of pushbacks at the border made by both the Council of Europe and international organisations. Texts describing how the use of pushbacks are contributing to potential criminalising HRD's and migrants have been selected. In order to show the difference in ideological standpoints, the texts have been chosen with authors with opposing standpoints. Recent texts displaying Greece's use of deterrence initiatives in relation to human rights and the international communities responses to such initiatives were chosen to portray a correct picture of the issues of the current debate.

It should be noted the choice of research material depends on the research questions and the research knowledge of what is relevant in addition to the actual access to relevant material (Jørgensen & Phillips, 2002, p.78).

Fairclough's method of CDA was used to critically analyse the following texts:

Text one: Letter from the CoECHR to the Minister for Citizens' Protection of Greece, the Minister of Migration and Asylum of Greece and the Minister of Shipping and Island Policy of Greece (CoECHR, Ref: CommHR/DM/sf 019-2021, Strasbourg, 3 May 2021).

Text two: Letter to the Greek president from the Special Rapporteur on the situation of human rights defenders; the Independent Expert on human rights and the international solidarity; the Special Rapporteur on the human rights of migrants and the Special Rapporteur on trafficking in persons, especially women and children (Ref.: AL GRC 4/2021, 16 November 2021).

Text three: Report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 17 March 2020 (Council of Europe, CPT/If (2020) 35, Strasbourg, 19 November 2020).

Text four: Letter from the Minister of Citizen Protection, the Minister of Migration & Asylum and the Minister of Maritime Affairs and Insular Policy on behalf of the Hellenic Republic to the Commissioner for Human Rights in response to the letter of May 3. 2021 (Athens, 11 May 2021, Ref (conf). 130).

Text five: From the Permanent Mission of Greece to the United Nations Office and other International Organizations in Geneva to the Office of the High Commissioner for Human Rights as a response to the letter with the ref: AL GRC 4/2021. (No: 6170.7/AS 1536, Geneva, 29 December 2021).

Text six: Response of the Greek Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Greece from 13 to 17 March 2020 (Council of Europe, CPT/Inf (2020 36, Strasbourg, 19 November 2020).

Text seven: UNHCR Comments on the Law on “International Protection and other Provisions”, UNHCR, February 2020.

Text eight: Letter to the Greek President from the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the human rights of migrants, (Reference: OL GRC 1/2021, 31 March 2021).

Text nine: Expert Council on NGO Law, Opinions on the Compatibility with European Standards of Recent and Planned Amendments to the Greek Legislation, Prepared by the Expert Council on NGO Law of the Conference of INGO’s of the Council of Europe, 2 July 2020

The texts have been selected to show how the current discourse on migration governance in Greece are leading to criminalising migrants and HRD’s and to human rights violations.

4.3 Epistemological and Ontological Foundations

This study is written taking an inductive approach to the research, with an interpretivist position as opposed to a positivist position as the epistemological background. An interpretivist position is generally applied when interpretation is involved, particularly when what is being interpreted is discourse and the social world (Bryman, 2016). In this research the analysis will be conducted by studying different texts relevant to my topic and interpreting the content of those texts in order to answer the research question.

The study is based on a constructionist ontology, which assumes reality is socially constructed and that it is subjectively interpreted by individual actors. That is, social actors are the ones accomplishing social phenomenon. As shown above, one of the key assumptions of CDA is that there exists a relation between society and the means of communication (Jørgensen & Phillips, 2002, p.68). Constructionism fundamentally invites the researcher to consider the ways social reality is an ongoing accomplishment of the social actors rather than something that is external and that constricts them. In addition, constructionism proposes the categories that people employ in helping them understand the world around them are in fact social products. That is, the meaning of these categories is constructed through research. It follows the social world and its categories are not external to us, but rather they are build up and constructed in and through interaction (Bryman, 2016, p.30).

4.4 Ethical Considerations and Positionality

The choice to do research on the Greek migration governance and the discourses pertaining to the criminalisation of migrant's and HRD's human rights stems from an interest in migrant's human rights. In addition, putting focus on the issue of human rights and contributing to bringing about a more fair and humane discourse and implementation of those rights is of particular interest.

Regmi writes in *Critical Discourse Analysis: Exploring Its Philosophical underpinnings* that any act of interpretation of interests cannot be objective or neutral. As interpretation involves the imposition of expectations, anticipations and conjectures upon external events, the researcher will fail to be completely neutral (2017).

Ethical dilemmas and issues may present themselves at any stage of the social research process. The role of values may become an issue when choosing a research topic and as a result how the subject of the research should be treated (Bryman, 2016, p.121). This means the researcher never conducts research in a moral vacuum as there are always ethical issues to take into consideration (Bryman, 2016).

Ensuring the legitimacy and validity of the research becomes a challenging when conducting CDA as qualitative research focuses on subjectivity (Regmi, 2017, p.12). CDA falls in an ethical dilemma in its epistemological ground. Not dealing with power and hegemony could make any research conducted using CDA non-critical however, by dealing with the issue of power and hegemony it may

fail to ensure validity and credibility (Regmi, 2017, p.13). This study is influenced by a variety of preconceptions held by the researcher, and these will have implications for the conducting of the research (Bryman, 2016, p.141). Holmes defines positionality as a term which describes an individual's world view and the position they adopt about a research task (2020, p.1).

While carrying out this study, worldview, background, values and assumptions have been taken into account and it is recognised these will influence what language will be used, what texts will be used, what data will be gathered and how that data will be processed and interpreted (Holmes,2020). It is important to bear in mind that as a Norwegian citizen, brought up in Norway, it will not be possible to fully identify with the research subjects – the individual migrants. Although being an outsider can present advantages as the researcher looks at the issue with fresh eyes (Berger, 2015, p.227), it can also be a disadvantage, especially when doing CDA as every step of the research process is subjective and dependent on the researcher's interpretation of the material.

CDA is not considered to be politically neutral, but as a critical access, where it is political engagement in social change. It is about being on the side of the suppressed social groups (Jørgensen & Phillips, 2002). As this study is conducted on the Greek government's discourse on the topic of migration, the research will be affected by the researchers' view of migrants as the suppressed in this context.

Finally, it should be noted the researcher's political stance on migration governance is in opposition to the current migration discourse promoted by the Greek government. Although, the objective is to produce an objective study, it is unlikely the interpretations of texts will be completely objective as what one takes from a text is entirely subjective (Bryman, 2016, Fairclough 2015).

4.5 Problems and Limitations

There are a number of challenges when conducting research using critical discourse analysis. One is it tends to be fairly open-ended (Bryman, 2016, p.405). This becomes especially prevalent as both the understanding of, and the interpretation of the language is highly subjective and based on the researchers understanding and interpretation (Bryman, 2016, p.28). This would be especially challenging where the researcher is analysing texts not in the researcher's native language. As all the texts analysed in this study is written in English, it is submitted the researcher's understanding of those texts may differ from that of a native speaker.

In *Critical Discourse Analysis and its Critics* (2011), Ruth Breeze set out a number of limitations to CDA. She describes the most common criticism of CDA as having predetermined aims. That is, the positionality of the researcher affects the findings (2011). This is in accordance with Bryman as well as it relates to it being a subjective method. As CDA is an interdisciplinary method, this has also been seen as a disadvantage by some. Although some researchers argue this to be a strength of CDA, others argue it renders CDA with a lack of coherence due to a mixing of incompatible concepts (Breeze, 2011, p.502).

In addition to the challenges set out above, the choice of analysing official documents deriving from the state presents some questions of credibility of the source of data (Bryman, 2016, p. 553). It is therefore important that, on the one hand the documents are examined in terms of the context in which they were produced and their implied readership and on the other hand, by whom they were produced (Bryman, 2016, p.560). It follows that documents need to be recognized for what they are – namely, texts written with specific purposes in mind, and not as simply reflecting reality (Bryman, 2016, p.561). Nevertheless, in some of the texts analysed in this study there were difficulties stating who the actual producer of the texts was. The producer is a central part of the context (Jørgensen & Phillips, 2002, pp.93-94). Knowing who the producer is and who the interpreter of the text is, is vital in understanding the context in which the text is produced. If the producer is unknown, it may affect the interpretation of the context and the discourse.

5 Data Findings and Analysis

This chapter consists of a thematic analysis drawn from a selection of texts, including UN reports and reports from the Greek government. The thematic analysis of the sample of texts attempts to establish how the current discriminatory discourse on migration governance in Greece results in the criminalisation of migrants and HRD's and in certain cases leads to serious human rights violations. In addition, the international community's response to the Greek migration governance will be analysed. The analysis will be guided by Fairclough's approach to CDA and Wodak's concepts of discrimination, othering and exclusion to reveal how Greece's migration discourse leads to the criminalisation of migrants and HRD's and how this discourse on criminalisation reveals an increased politization of migration governance in Europe and in Greece. The selection of themes reflects the key issues related to hegemony, power relations and exclusion. Therefore, it addresses the research questions, exploring how Greece's discriminatory discourses criminalising migrants and HRD's and migrants in Greece lead to violations of human rights and how the discourse on criminalisation of migration and HRD's show a politization of migration governance in Greece. The analysis will show to what extent hegemonic power relations are either maintained and reproduced, challenging the human rights of migrants and HRD's.

5.1 Criminalisation through the Use of Pushbacks

5.1.1 Background of Texts

According to Fairclough's CDA, establishing the background of a text is important to identify the producer and the topic of the text, to contextualise the text, and to identify the discourse themes revealed in the text. In addition, it is important to establish how a text interrelates with other texts, and the perspectives that they represent. The relationship between texts and social structures is an indirect and mediated one. It is mediated by the discourse which the text is a part of, because the values of textual features only become real and socially operative if they are embedded in social interaction where texts are produced and interpreted against a background of common-sense values (Fairclough, 2015, p.154).

The reported use of pushbacks against migrants at Greece's borders at land and at sea has long been a topic of concern for both national and international human rights organizations. The UN Special Rapporteur on the human rights of migrants, Felipe Gonzalez Morales, said in a statement:

“I am very concerned about the reported pushbacks of asylum seekers and migrants, which constitutes a violation of the prohibition of collective expulsions and the principle of non-refoulement” (UN Human Rights, Office of the High Commissioner, March 2020).

Gonzalez Morales also expressed concerns regarding the increase in hostility and violence against humanitarian workers, HRD's and journalists working at Greece's borders and in the Greek Aegean Sea. He stated:

“Greece has the responsibility to ensure that migrants and those assisting them are protected from threats and attacks. The authorities should condemn promptly and ensure accountability for any such acts.” (Gonzalez Morales, 2020).

To further explore how Greece's discourse on migration is criminalising migrants and HRD's through the alleged use of pushbacks and by implementing strict regulations in their asylum and migration governance, the following six texts have been chosen for analysis together with another three texts which are reviewed in Chapter 5.2 below.

Text one is a letter from the CoECHR, Dunja Mijatovic dated 3 May 2021. In the letter concerns regarding Greece's migration discourse is being voiced on three issues: (1) The alleged use of pushbacks at Greece's border to Turkey, (2) The increasingly challenging environment in which NGO's protecting the rights of migrants operate in Greece. This is made more demanding by the introduction of complicated registration procedures which have been reported risk not only weakening these organizations, but also affecting thousands of migrants, who depend on their work to secure basic rights on a daily basis, and finally (3) the reception conditions where living standards are reported to be substandard. The producer of the text is the CoE, the context in which it was produced was concerns regarding the allegations mentioned above and the intended interpreter of the text is the three Greek Ministers to whom it is addressed. The purpose of reviewing the text is to gain additional information and clarification of the above issues. This study will focus on issue one and two.

Text two is a joint statement from the Special Rapporteur on the Situation of human rights defenders, the Independent Expert on human rights and international solidarity, the Special Rapporteur on the

human rights of migrants and the Special Rapporteur on trafficking in persons, especially women and children from the UN, dated 16 November 2021. The letter is addressed to ‘Excellency’ only, which is presumed is the Greek Prime Minister. This assumption is made as it is later made reference to your ‘Excellency’s Government. The letter rises concerns regarding the allegations of criminalisation of HRD’s in Greece, specifically the arrest and detention of Ms. Sarah Mardini and Mr. Sean Binder. The case has gotten a lot of attention internationally as the Greek authorities charges against them are believed to be without merit (Amnesty International 2021, Human Rights Watch 2018). The purpose of reviewing this letter is for the Greek government to answer concrete questions set out in the letter and to provide additional information.

Text three is a report to the Greek Government on the visit to Greece carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 17 March 2020 (Council of Europe, CPT/If (2020) 35, Strasbourg, 19 November 2020).

Text four is a letter from the Hellenic Republic dated 11 May 2021. The producers of the letter are three Ministers of the Greek government. The Minister of Citizen Protection, the Minister of Migration & Asylum and the Minister of Maritime Affairs & Insular Policy. The letter is produced as a response to text one and the intended interpreter is the Commissioner for Human Rights to whom it is addressed.

Text five is from the Permanent Mission of Greece to the United Nations Office and other International Organizations in Geneva as a response to text three. It is addressed to the Office of the High Commissioner for Human Rights Geneva. The letter is marked urgent in capital letters, giving an impression the content is considered important by the producer.

Text six is the response of the Greek Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Greece from 13 to 17 March 2020 (Council of Europe, CPT/Inf (2020) 36, Strasbourg, 19 November 2020).

The above six texts have been chosen in order to be able to give a comprehensive analysis of the current migration governance in Greece. To get a wide range of information and more than one perspective on the issues, texts **one**, **two** and **three** is produced by international institutions, whilst texts **four**, **five** and **six** are produced by Greek officials. This provides an interesting glance into the

two discourses and how they are fundamentally different in what ideological foundations are driving them. According to Fairclough, the formal properties of a text are made up of properties that can be regarded from the perspective of discourse analysis on the one hand as *traces* of the productive process and as *cues* in the process of interpretation on the other (p.57, 2015). Fairclough state the interplay between these properties and MR's, or 'members resources', such as knowledge of language, representations of the natural and social worlds in which they live, values, beliefs, assumptions and so on and which they draw upon when they either produce or interpret texts, is an important property of the productive and interpretative processes (Fairclough, p.57). So, depending on people's MR's their interpretations of the text could differ significantly.

As many of the texts analyzed in this study addresses more than one topic relevant to the research questions, different part of the texts may be referred to under different headings.

5.1.2 Criminalising Migrants and HRD's

Wodak argues discriminatory acts can manifest themselves in all levels of language and that exclusion is very often linked to power and, therefore, marginalized groups are the ones who tend to be discriminated against (2011). Discrimination implies barring of access through means of explicit or symbolic power implemented by the social elites. Debates about immigration and nationhood are crucially linked to assumptions about place. "Our" culture belongs here, whilst "foreigners" belong "elsewhere" (Wodak, 2012, p. 416). The concept of exclusion, therefore, becomes relevant when considering whether migration governance as an effect on the human rights of migrants in connection with hegemony and power (Rheindorf & Wodak, 2018).

She also states these discriminatory acts may be both intentional and non-intentional (p.54, 2011). An example of intentional discriminatory acts is when discriminatory opinions, stereotypes, prejudices and beliefs are produced and reproduced by means of discourse; and through discourse, where the discriminatory exclusionary practices are prepared, implemented, justified and legitimated (Wodak 2012, p.406, Reisigl and Wodak, 2001).

In the analysis, these concepts will be considered in relation to the texts which are being critically looked at using CDA, especially how exclusion is linked to power and how in Greece this becomes relevant as the government, by passing discriminatory policies and laws are discriminating against the migrants and HRD's:

“Human rights violations against migrants can include a denial of civil and political rights such as arbitrary detention, torture, or a lack of due process, as well as economic, social and cultural rights such as the rights to health, housing or education. The denial of migrants’ rights is often closely linked to discriminatory laws and to deep-seated attitudes of prejudice or xenophobia”. (UN Human Rights, the Office of the High Commissioner, n.d.a.)

Both text **one** and text **three** deals with the situation of the alleged use of pushbacks at the Greek border. In text one it is stated:

“With this letter, I want to continue our dialogue on some of these concerns, in particular as regards pushback allegations, but also the situation of civil society organisations working to protect the rights of refugees, asylum seekers and migrants, and reception conditions on the Aegean islands.”

Article 33(1) of the 1951 Refugee Convention¹⁶ contains the fundamental principle of non-refoulement, which literally translates to ‘no pushbacks’ (Graf, J, 2020). States are prohibited from *“expelling or returning a refugee in any manner whatsoever to the frontiers of territories, where his life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion”* (UNHCR, 23 August 1977). In addition to the 1951 Refugee Convention, the principle of non-refoulement exist in international human rights law (Article 3, CAT¹⁷; Article 7, ICCPR¹⁸; Article 3, ECHR¹⁹, Article 19(2), CFR²⁰).

Text **one** and **three** both make reference to the allegations of push-backs at the border.

Text **one**:

“In my 2018 report, I noted the numerous credible allegations of summary returns (“pushbacks”) to Turkey, often accompanied by violence, and urged the Greek authorities to put an end to this practice. I am deeply concerned that, two and a half years later, allegations of pushbacks persist at both the land and the sea borders with Turkey”.

¹⁶ <https://www.unhcr.org/3b66c2aa10>

¹⁷ <https://treaties.un.org/doc/Publication/UNTS/Volume%201465/volume-1465-I-24841-English.pdf>

¹⁸ <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>

¹⁹ <https://treaties.un.org/doc/Publication/UNTS/Volume%20213/volume-213-I-2889-English.pdf>

²⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012P/TXT&from=DE>

*“Summary returns from Greece to Turkey across the Evros River border have been **reported and documented** for several years”.*

*“...not only by international media and civil society organisations, but **also by national human rights structures and international organisations**”.*

*“In the reports following its 2018 and 2020 visits to Greece, **the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)** indicated that it had received “**consistent and credible allegations**” of pushbacks”.*

*“Similar allegations led the **Greek Ombudsman** to initiate an investigation...”.*

*“...he published on 28 April 2021, “**the alleged pushbacks investigated, appear to follow a standard practice**”.*

*“The Ombudsman also notes that “the complainants are invariably convinced that the alleged pushbacks have been **the work or have at least involved state agencies and state agents at the levels of operational planning, logistics and perpetrators**”.*

*“I note that this modus operandi **coincides with the testimonies reflected in the above-mentioned CPT reports and with information received by UNHCR, which has gathered tangible information pointing to pushback in several dozen incidents since January 2020**”.*

*“Pushbacks at sea are also **widely reported and documented** by international media, civil society organisations, as well as CPT. In the report on its visit to Greece, the latter stressed its delegation had “**received a number of consistent and credible allegations concerning Acts by the Greek Coast Guard to prevent boats carrying migrants from reaching any Greek island**”.*

Text three:

*“The evidence supporting the case that migrants are pushed back across the Evros River by Greek officers are **credible**”.*

*“The CPT also received **consistent and credible** allegations...Greek Coast Guard prevent boats carrying migrants from reaching any Greek island”.*

The use of words and phrases like “consistent”, “numerous”, “documented” and “credible” are being repeated in all texts. By using such words and phrases the producer is signaling to the interpreter that this information is based on fact, the phrase “credible allegations” is being used twice, when referring to two different sources. In addition, it is stated the allegations are “documented” by media civil society organisations as well as the CPT. This indicates actual documents proving the allegations exist. This gives the statement legitimacy. There are also references to international human rights structures and international organizations such as the European CPT, the Greek Ombudsman and the UNHCR. These are international organizations recognized as serious actors within the human rights discourse and so adds authority to both the allegations and the reports.

In addition to the above texts, numerous sources have been reporting on the use of pushbacks in Greece (Radjenovic, European Parliament, 2021). The Report of the Special Rapporteur on human rights of migrants on “*means to address the human rights impact of pushbacks of migrants on land and at sea*”, dated 12 May 2021, documented extensive use of pushbacks and he urged “*States must ensure that border governance measures respect, inter alia, the prohibition of collective expulsions, the principle of equality and non-discrimination, the principle of non-refoulement, the right to seek asylum, the right to life, the prohibition of torture, the promotion of gender equality, and the rights and best interests of the child. States are further bound to ensure access to justice for victims of human rights-violations and abide by their search and rescue obligations under international maritime law*” (UN Human Rights Council 2021).

For Fairclough and Wodak (1997), ideology infers an attempt to construct a certain representation of social reality as well as the relationships and roles that different social groups play in that reality. Discourse is where such representations are materialized (Mezzanotti, 2020, p.4). This becomes apparent in text **four** and **six** produced by Greece officials where the representation of the social reality differs significantly from that in text **one** and **three**.

Text **four**:

*“The actions taken by the Greek authorities are being carried out in **full compliance** with the country’s international obligations...”*

*“...the allegations against the Hellenic Authorities **do not correspond** to the well-established standard operating procedures and have been so far proved **largely unsubstantiated**.”*

Text **six**:

*“...the alleged practice of military and police officers operating outside the official administrative facilities and secretly assisting in carrying out supposed pushbacks to the border is **unsubstantiated and completely wrong**. **No complaint or evidence has come to our knowledge about this**.”*

*“In contrast to these allegations, we should stress in **particular the unwavering humanitarian commitment by the Hellenic Authorities** that has resulted in **saving thousands of migrants’ lives since 2015**. **This is a fact** that can be neither argued nor disregarded and it was made possible only thanks to the **continuous efforts of the Greek personnel**, supported by FRONTEX and operating very often in a particularly complex and volatile operational environment. As proof to that, in more than 800 incidents coordinated by the Hellenic Authorities at sea in 2020, no casualty was registered during SAR operations, **while hundreds of migrants and refugees have been rescued**. That would not have been the case should the Hellenic Authorities had not acted in a **swift and decisive manner**.”*

*“It is to note that the Hellenic Authorities follow **a strict and disciplinary legal framework** investigating information concerning alleged incidents of ill-treatment at the borders, including allegations for unprocessed returns (pushbacks), applying the foreseen by law penalties and taking all necessary measures so that unwanted incidents are avoided.”*

What is immediately noticeable about the above statements is the discrepancies between the texts produced by international institutions and the ones produced by the Greek officials. Whereas the internationally produced text expresses concern about the migration discourse and the potentially devastating impact on migrants’ and HRD’s human rights, the texts with Greek text producers have a very different tone and focus. The focus appears to be on portraying the Hellenic authorities as having handled the situation perfectly and rescued migrants instead of on the allegations of misconduct. It states their actions were carried out **in full compliance with the law**. The text also

dismisses the reports of pushbacks and misconduct as **largely unsubstantiated, completely wrong** and that *No complaint or evidence has come to our knowledge about this*".

Text **one** is also raising the issue of a person's right to seek asylum and not to be summarily returned:

*"...reported instances in which migrants who have reached the Eastern Aegan islands from Turkey by boat and have sometimes **even been registered as asylum seekers**, have been embarked on life rafts by Greek officers and pushed back to Turkish waters"*.

This text continues to state:

*"In this respect, **I want to underline** that when persons at the border are returned **without individual identification or procedure**, they are prevented from **putting forward reasons why such returns would violate their rights**, and to **apply for protection against such violations**. In such cases, member states cannot satisfy themselves that they are not sending them back in violation of, for example, Article 3 of the European Convention on Human Rights (ECHR) and the refoulement prohibition in the UN Refugee Convention. These protections **apply to anyone**, regardless of the way in which they arrive at member states' borders, **including if this in an irregular manner.**"*

By putting the phrase, **I want to underline** at the start of the sentence, the text producer emphasizes the importance of the coming paragraph. It stresses the importance of allowing persons access to the appropriate procedures to ensure their human rights are protected. Returning to text **four** it appears, although it has been widely documented, as shown above, the Greek government is not willing to take any responsibility for the current situation at the border. The text states:

*"Greek officers continuously perform their duties against the backdrop of an unfavorable environment of **intended misleading information emanating in most cases by the smugglers networks and by those supporting them, aiming at harming their reputation and demoralizing them**. **The fight against smugglers is a priority for Greece** and we have been active at European level to reinforce action, including the implementation of initiatives in the countries of origin and transit."*

This paragraph has clear ideological content. The Greek government has been accused of using the accusation of “smuggler” in reference to HRD’s assisting migrants to reach Greece on several occasions in the past. A total of 35 aid workers in addition to four different NGO’s were accused of migrant smuggling and spying by the Greek police in 2020 (InfoMigrants, 2020).

HRD’s and civil society organisations play a major role in reporting and documenting pushbacks. Scrutiny by civil society is crucial for sustaining a democratic society. Greece has been accused of making that increasingly difficult for HRD’s. In text **one**, concern is being expressed about the new law on NGO’s and its cumbersome registration procedures. It states:

*“Many voices have raised the alarm, including **the Expert Council on NGO Law**, which published in November 2020 an Addendum to its Opinion on Greek Legislation on the Registration and certification of Greek and foreign NGO’s **urging Greece to “carry out a full review of its laws and related decisions pertaining to the registration, certification and operation of NGO’s in order to guarantee civil society space, in line with European standards”** and three UN Special Rapporteurs who expressed concern that the Greek legal framework on NGOs may have **“a significant and detrimental impact on the operations of all civil society organizations working with migrants and refugees in Greece”**. I share these concerns, and **call on the Greek authorities to build on the recommendations issued by these bodies in order to actively create and maintain an enabling legal framework and a political and public environment conducive to the existence and functioning of civil society organizations”**.*

Again, by starting the sentence with “many voices” and “raised the alarm” implies a sense of urgency. In addition, using words like “detrimental” implies the consequences will be severe unless Greece amends its law. The producer is stressing upon the interpreter the importance of the issue. Reference is again being made to international organisations, which lends authority to the statement. The words “urge” and “call on” puts an obligation on Greece to amend the law.

In text **four**, the Greek government responded by stating:

*“...the objective is to set the same rules for all NGOs operating in Greece, **to ensure that these organisations (or their members) are not linked to illegal activities whatsoever, as well as to verify that they offer high quality services to the beneficiaries.**”*

The highlighted phrase seems to imply NGO's and their members have been linked to illegal activities in the past. The text implies this is somehow a treat to Greece and the law is necessary to ensure no illegal activities takes place. As shown above, Greek authorities have a history of criminalising HRD's by charging them with serious crimes, such as illegal smuggling and 'espionage'. A case which has received a lot of attention internationally is the case of Sarah Mardini and Seán Binder.

Text **two** addresses some concerns the text producers have and their request for additional information. The text starts with providing background on the case and any concerns the text producer may have in relation to them.

“On 17 February 2018, Ms. Sarah Mardini and Mr. Seán Binder were stopped by Greek police for an identity check while conducting patrolling activities in a car licensed by the ERCI on the island of Lesbos. They were reportedly found to be in possession of two unlicensed radios and the ERCI vehicle which they were driving was found to have fake military plates hidden beneath the regular license plate. Ms. Mardini and Mr. Binder were held for 48 hours and released without charges.

*Upon release, Ms. Mardini was subject to a re-entry ban, which **prevents her from entering Greek territory even to present herself for a trial.** Ms. Mardini's lawyers have appealed against decision, requesting that she be allowed to attend her trial. **On 12 November 2021, the re-entry ban against Ms. Mardini was upheld.***

*Reportedly, there are several irregularities in the justification for the charges against Mr. Binder and Ms. Mardini, including that they were not in Lesbos at the time of some of the alleged incidents. In addition, other charges brought against them appear to be based on the legitimate activities of search and rescue organisations, which is in line with international maritime and international law. For example, their legal activities to help boats in distress allegedly formed the basis of the charge of “**facilitating illegal entry**”. The alleged administrative offenses of ERCI, such as lack of valid radio licenses, were considered to be serious criminal activities, such as espionage, by Ms. Mardini and Mr. Binder, of which there is **no evidence of them committing.** With regards to the military plates found behind the regular plates, the prosecution reportedly argues that the human rights defenders intentionally placed them there to allow them to gain access to restricted military areas of the*

beach. However, the vehicle in question reportedly had two large emblems on both sides, which clearly identifying the car with the NGO.

*On 18 November 2021, a hearing will be held for the two human rights defenders on the misdemeanours of “espionage”, “disclosure of State secrets”, “unlawful use of radio frequencies” and “forgery”. The prosecution has not concluded its investigation into the remaining felonies. If convicted on all charges, the human rights defenders could face up to 25 years in prison. **A lengthy delay of over two years has already passed since the arrest and accusation of Ms. Mardini and Mr. Binder on these charges.***

*Several other defenders of the human rights of migrants, refugees and asylum seekers have also **reportedly ceased or severely reduced their activities** due to difficulty registering their non-governmental organisation and/or fear of retaliation. There are currently no active search and rescue boats on the island of Lesbos».*

From the highlighted sections above it is clear, the text producer is implying the arrests were not warranted. The statement “**there are several irregularities in the justification for the charges against Mr. Binder and Ms. Mardini, including that they were not in Lesbos at the time of some of the alleged incidents**” is presented as a fact by the text producer by stating “**there are**” as opposed to for example “**there appears to be**”. The tone of the text is accusatory, the producer is pointing out that “**A lengthy delay of over two years has already passed since the arrest**”, a clear indication to the interpreter that things are not moving at a satisfactory pace. The text producer is after additional information from the intended interpreter of the text, which is presumed to be a Greek official. Additional information is asked for on the following matters: (1) provide any additional information on the allegations, (2) provide information on the factual and legal bases for the charges against Mr. Binder and Ms. Mardini. Explain how these charges are consistent with Greece’s obligations under international law, (3) explain how Ms. Mardini’s re-entry ban is consistent with Greece’s obligations under international law with reference to a fair trial, (4) provide information on the measures in place to ensure that human rights defenders supporting the rights of migrants, trafficked persons, refugees and asylum seekers can carry out their legitimate work without fear of criminalization or retaliation of any sort, from State and non-State actors and finally (5) provide information on the reasons for the delay of over two-years between the beginning of investigations into the misdemeanors and the beginning of the corresponding trial. Please also provide information on the status of the investigation

into the felonies, and the reasons for which the investigation has yet to be concluded. In addition, a letter with Greece's obligations under international law is attached.

The response is set out in text **five**. As appears to be the case in all the communications from the Greek officials, the tone is not that of someone claiming responsibility. The answers are provided below:

“The individuals mentioned in the Joint Communication under Ref: AL GRC 4/2021, dated 16th November 2021, were arrested on 9th February 2018 by officers of the Mytilene Central Port Authority on the Island of Lesbos. The charges brought against them were: violation of the Greek Penal Code (article 216 regarding forgery, article 146 on violation of State secrets, article 148 on espionage), as well as the provisions of Law 4070/2012 on the “Regulation of electronic communications, transport, Public constructions and other provisions”, which regulates the possession of portable marine wireless devices (VHF). In this particular case, the legal requirement for obtaining permission for the use of such devices was also violated.”

The response to the first question seems to be just repeating what is already known, with the addition of Greek law:

*“Following the Mytilene prosecutor's order for a preliminary enquiry, the competent (positive word) Police Authority, i.e. the Mytilene Security Department, proceeded with conducting an investigation as provided for by law(gives legitimacy). During this investigation, **indications were found** regarding the involvement of said individuals in activities and participation in what is designated under law as a ‘criminal organisation’ whose activities were **aimed at committing more felonies** in particular the felonies described under Article 187 paragraphs 1 and 3 of the Greek Penal Code. Activities of such a criminal organization constitute the criminal acts described in law under articles 5, 29 and 30 of Law 4251/2014 on “Immigration and Social integration code and other provisions”, combined with the Greek Penal Code provisions and in Particular article 216 on forgery as well as article 76 of Law 4070/212 on “Regulation of electronic communications, transport, public constructions and other provisions”, and articles 1, 2, 3, and 45 of Law 3691/2008 on “Prevention and suppression of money laundering and terrorism financing and other provisions”.*

In the answer to the second question, the language is evasive and vague it appears it is attempted to overwhelm the interpreter by listing Greek law. It states “indications were found” that they were involved in a criminal organization and that they were aiming at committing more felonies, however no details are provided. As for the question pertaining to how these charges are consistent with Greece’s obligations under international law, no answer is given.

Regarding the re-entry ban, the issue of international law and the right to a fair trial is ignored. As to question four I was unable to locate the document referred to.

“The re-entry ban in Greece was issued in the name of the individual mentioned in the joint statement according to the relevant national legislation. More specifically, the return Decision was issued on 5th December 2018 by the aliens Division of Attica, based on the charges brought against the said individual. It is force until 2025, however an appeal has already been submitted to the Athens administrative court against it”.

Regarding question **five**, the situation is the same. The language is vague and evasive and no answer except for stating the investigation is ongoing is given.

“As the investigation on the charges relating to espionage and to participation in a criminal organization is still ongoing, further information cannot be disclosed”.

Wodak states an intentional discriminatory act is when discriminatory opinions, stereotypes, prejudices and beliefs are produced and reproduced by means of discourse, and through discourse, where the discriminatory exclusionary practices are prepared, implemented, justified and legitimated (Wodak 2012, p.406, Reisigl and Wodak, 2001). The text reflects an attitude of us (the Greek government) versus them (migrants). (Wodak, 2012).

Politics is viewed as a struggle for hegemony, meaning that power is a result of consent rather than the use of force (Fairclough, 2003, p. 45), and a cultural hegemony inclines to develop a world view that appeals to a wide range of other groups within the society (Gramsci, 2000, pp. 204-205). One can imagine that the element of fear is an effective tool to gain support for the producer’s ideology.

Relational values describe how the wording of a text depends on and helps create social relationships between participants (Fairclough, 2015, p.134).

In this context, it implies the migrants pose some kind of threat to the Greek state and their way of life without actually being specific about why that is. It seems to be used as more of a scare tactic and it will definitely influence the Greece's attitudes towards the migrants when they are being told they entered the country illegally. This rhetoric, especially when used by persons in authority has been showed to increase the hostility and discrimination towards migrants and therefore also contributes towards criminalising them.

Text one

Many voices have raised the alarm, including the Expert Council on NGO Law, which published in November 2020 an Addendum to its Opinion on Greek Legislation on the Registration and certification of Greek and foreign NGO's urging Greece to "carry out a full review of its laws and related decisions pertaining to the registration, certification and operation of NGO's in order to guarantee civil society space, in line with European standards" and three UN Special Rapporteurs who expressed concern that the Greek legal framework on NGOs may have "a significant and detrimental impact on the operations of all civil society organizations working with migrants and refugees in Greece". I share these concerns and call on the Greek authorities to build on the recommendations issued by these bodies in order to actively create and maintain an enabling legal framework and a political and public environment conducive to the existence and functioning of civil society organizations.

Text four

In this regard and in full compliance with national and European legislation, including the right of association, the Ministry of Migration and Asylum established a Register of Greek and Foreign NGOs dealing with international protection, migration and social integration issues. The objective of the Register is not to set barriers to the NGOs and in no case the registration procedure is intended to be excessive or cumbersome.

On the contrary, the objective is to set the same rules for all NGOs operating in Greece, to ensure that these organizations (or their members) are not linked to illegal activities whatsoever, as well as to verify that they offer high quality services to the beneficiaries. Additionally, the Register aspires to help the Ministry of Migration and Asylum to better coordinate the efforts of all the CSOs, to save

human and material resources and, thus, to optimize the impact of their assistance, in the light also of their regular funding by EU or national budget.

Therefore, our position is that the measures and obligations introduced by the current legislation are not only proportionate to the particular circumstances prevailing in the field of activity of these NGOs, but also absolutely necessary for consolidating their added value.

In **text five** the Commissioner for Human Rights expresses concern over the allegations of pushbacks. She says:

*“In the reports following its 2018 and 2020 visits to Greece, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) indicated that it had received “**consistent and credible allegations**” of pushbacks”.*

*“Pushbacks at sea are also widely reported and **documented** by international media, civil society organisations, as well as by the CPT”.*

*“...the latter stressed that its delegation had “received a number of **consistent and credible** allegations concerning acts by the Greek Coast Guard to prevent boats carrying migrants from reaching any Greek island.”*

By repeating the words *consistent* and *credible*, the allegations of pushbacks are presented as facts. It also implies this is something that is happening on a regular basis. It also refers to reports dating back several years where the same issues were brought up. It implies a certain migration discourse preferred by the Greek government.

In **text one**, the author, the three ministers, on behalf of the Hellenic government, presents several ideological indications which differ significantly from that of the Council of Europe. As the producers of the text are ministers from the Greek governments, the context is a response to the Commissioner for Human Rights of the Council of Europe and the intent of production is to respond to the allegations set out in text:

*“In the beginning of 2020 Greece faced a **sudden and organized** attempt of thousands of persons to **enter illegally** into Greek and European territory. This massive and coordinated*

movement of people constituted a grave and asymmetrical threat to Greece and the EU in all its aspects. In this framework, the competent national authorities maximised their efforts to protect Greek and European borders, a responsibility stemming from the national and EU legislation” (Hellenic Republic, 2021).

The words highlighted give a clear indication of the Greek governments attitude towards the migrants. Terms like “sudden”, “organized” and “enter illegally” contain a heavy ideological component and have been used by politicians, leaders and the media to legitimize urgency and ‘special measures’. The use of these terms suggests the idea of emergency and the need for urgent and extreme responses when, in fact, the root causes of the phenomena of migration is either not contextualized and studied or purposely hidden but are known to be related to larger aspects of sociopolitical and political-economic change (Mezzanotti, 2020).

The use of these terms stigmatize migrants and serves the purpose of recontextualization of migration in order to legitimize a different treatment than historically already built (Krzyżanowski, Triandafyllidou, and Wodak, 2018).

The phrase “grave and asymmetrical threat” in relation to the migrants entering Greece, the producer is presenting ideologically significant meaning relations (Fairclough, 2015, p. 133).

The word “illegally” is used when referring to the people attempting to enter Greece, and by doing so, the author creates an impression that every person on the move are criminals. This present ideologically significant meaning relations (Fairclough, 2015, p.133). By stating they are attempting to enter the country illegally, it is implied that by doing so they are committing a crime. It is not stated why this is a crime nor the manner of which entry is being sought. The text is painting a negative picture implying that migration is a criminal act. It follows, one could draw the conclusion the Greek government sees migration as something illegal (Marin & Spina, 2016, p.147).

Relational values describe how the wording of a text depends on and helps create social relationships between participants (Fairclough, 2015, p.134). The text reflects again an attitude of us (the Greek government) versus them (the migrants). Wodak talks about exclusion in relation to citizenship which creates a divide between “us” and “them” (Wodak, 2012).

In this context, it implies the migrants poses some kind of threat to the Greek and their way of life without actually being specific about why that is. It seems to be used as more of a scare tactic and it will definitely influence the Greeks' attitudes towards the migrants when they are being told they entered the country illegally. This rhetoric, especially when used by persons in authority has been showed to increase the hostility and discrimination towards migrants and therefore also contributing in criminalising them.

Throughout the text extensive use of words such as "illegal" and "threat" are being used when referring to the people attempting to enter Greece. These are clearly words with a negative expressive value. According to Fairclough, whether you view a word as positive or negative is dependent on your ideological standpoint (Fairclough, 2015, p.136). By repeating the words illegal and threat, the writers of the text are taking a clear ideological standpoint in favour of the Greek government and its handling of the situation, and any negative connotations are attached to the migrants. The repeated use of these words would also constitute a clear case of discrimination. Although not spoken directly, when reading between the lines, the message seems clear. This type of language also contributes to the criminalisation of the migrants. It is not mentioned anywhere in the text why the entry of the migrants into Greece is considered illegal.

The text goes on to point out how the national authorities have been competent when protecting the Greek and European external borders and how this is a responsibility which stems from both national and EU legislation. Although this statement is correct, there is no mention of the authorities responsibilities towards the migrants. Nowhere is it stated that the authorities have an obligation towards the migrants both in the migrants right to seek asylum (Article 14 UDHR) or that the pushbacks are a breach of the principle of non-refoulement and therefore an infringement of the migrants' human rights and a breach of both International Human rights Law and EU law.

The concept of modality is to do with the authority of the writer of the text and is a form of relational values and according to Fairclough modality has two dimensions (Fairclough, 2015, p.142). Relational modality which occurs when it is a matter of authority by one participant over another and expressive modality which occur when it is a matter of the speaker's authority with respect to the truth or probability of a representation of reality, that is, the speaker/writer's modality of the truth. So, modality clarifies the degree of the speaker's commitment to the statement that is being made and lends authority to that statement.

Often used words that will describe modality include should, must (which would suggest an obligation by one party to another), urge (which suggests the urgency of the obligation put on one party by another) and the use of the words we and you describes modality as it gives the us against them.

The next paragraph of the text reads:

*“The Turkish authorities **evidently** have assisted such crossings on numerous, **well documented** occasions. People crossing usually have legally residing in Turkey, which is a **safe transit country**, as also recognized by the 2016 EU- Turkey Joint Statement. “*

In this paragraph it appears the Greek ministers are attempting to put a portion of the blame on the Turkish authorities. With the use of the word “well documented”, this is presented as a fact. It appears this is a reference to Erdogan’s decision on February 2020 to allow refugees to cross the border into Greece and Bulgaria. (Amnesty International, March 5, 2020). What is not stated here however, is the abhorrent number of inhumane measures which was the Greek governments response. These measures were a clear violation of EU and international law and were put in place solely to keep the migrants out without any regard for their human rights (AI, 2020).

The use of the word “**evidently**” and “**well-documented**” when describing an action taken by the Turkish Government implies this is factual and understood. Stating the persons being assisted usually have the legal right of residence implies the Turkish government is attempting to help these persons cross the border even if they have no reason to. There is no further information on why that is. Describing Turkey as a safe transit country is a highly controversial issue. Greece has been accused of defining Turkey as a safe transit country, not to help migrants, but to reduce the number of migrants entering Greece.

Going back to Fairclough’s perception of ideology and power, ideologies are representations of aspects of the world, which contributes to establishing and maintaining relations of power, domination and exploitation (Fairclough, 2003, p. 9). Prioritizing border management over human rights portrays a value system belonging to a discourse (Fairclough, 2003, p. 58) where the Greek state is putting more consideration into regulating their borders and keeping unwanted people out, than taking into consideration international obligations, handing the responsibility of flows of migration and upholding the right to seek asylum to other countries (Gammeltoft-Hansen, 2017). It

can be assumed that this type of discourse also will have an effect on immigrants already receding in Greece.

“The return of an asylum seeker before his/her case has been duly examined through a fair asylum process could amount to refoulement”

5.1.3 Hegemony – The Use of Fear as a Way to Sustain Power

Text two:

*“In the beginning of 2020 Greece faced a **sudden** and **organized** attempt of thousands of persons to enter illegally into Greek and European territory. This **massive** and **coordinated** movement of people constituted a **grave** and **asymmetrical threat** to Greece and the EU in all its aspects. In this framework, the competent national authorities **maximised their efforts** to protect Greek and European borders, a responsibility stemming from the national and EU legislation”* (Hellenic Republic, 2021).

The text starts by stating the influx of migrants to Greece was a “**sudden**” and “**organized**” attempt by thousands of people to enter Greece and Europe. It is also being described as “**massive**” and “**coordinated**”. The authors make it sound like an invasion and imply thousands of people had come together and unanimously decided to enter Greece at the same time.

The authors go on to describe the influx of migrants as a “threat”. This implies the migrants are a danger to the Greek people and their way of life. There is, however, no explanation of why the influx is deemed to be a threat.

The topic of using fear as a deterrence mechanism is also addressed in text **three**. In this text the Special Rapporteur on the situation of human rights defender and her co-authors state the trend of criminalising HRD’s, in this context the arrest of Sarah Mardini and Sean Binder, is compromising HRD’s work of protecting the right to life at sea and providing vital aid to migrants and refugees this have led to:

“...several other defenders of the human rights of migrants, refugees and asylum seekers reportedly ceased or severely reduced their activities due to difficulty registering their non-governmental organization and/or fear of retaliation”.

Furthermore, they state their concern over the prolonged pre-trial detention of the defenders and the fear this may deter others from carrying out legitimate human rights work.

They state there are at the time of writing no active search and rescue boats on the island of Lesbos. By creating elements of fear, it is likely the issue of migration becomes more politicized, creating greater opportunities for hegemony as the interest of the producers are presented as crucial to the interpreter’s interest. In text **two**, the producers of the text portrays migrants as a threat and therefore something the Greek population must be protected against. This can also be linked to the concept of discrimination. Wodak talks about discrimination in language and what she calls “Discursive Dimensions of ‘Inclusion and Exclusion’” (2011). She argues discriminatory acts can manifest themselves in all levels of language and that exclusion is very often linked to power and that therefore marginalized groups are the ones who tend to be discriminated against. Discrimination implies deprivation of access through means of explicit or symbolic power implemented by the social elites. In the Greek context, this is visible through the exclusionary policies.

For Fairclough and Wodak (1997), ideology infers an attempt to construct a certain representation of social reality as well as the relationships and roles that different social groups play in that reality. Discourse is where such representations are materialized (Mezzanotti, 2020, p.4). It appears the Greek government is constructing a reality in which migration are viewed as an unwanted evil.

5.1.4 Hegemony: Sustaining power through Deterrence mechanisms

The Greek discourse on migration appears to be heavily influenced by the use of deterrence practices. All the texts above are showing some form of deterrence practice implemented by the Greek government.

Texts **one** and **three** demonstrates the use of pushbacks at the border and increasingly restrictive policies intended to restrict the work of NGO’s. In addition, text **two** describes the case of Sarah Mardini and Sean Binder who have been charge with serious crimes without much proof. The fear of being prosecuted also works as a deterrence mechanism and could limit the number of NGO’s

operating in Greece. This would be detrimental to the migrants who are relying on them on a daily basis.

In addition, the texts are all portraying policies which are designed to make migration seem as unattractive as possible (Gammeltoft-Hansen, 2017,p.100) and make the asylum process as cumbersome as possible. In text **three**, one such policy is described. Law 3386/2005 on the “*Entry, residence and social inclusion of third country nationals in the Greek Territory*” states under Article 83, paragraph 1 that, “*third country nationals who...enter or attempt to enter Greece without legal formalities shall be punished by imprisonment of at least one thousand five hundred EUR (1,500 €)*”.

5.1.5 Contradictions in the narratives of the International narrative and that of the Greek Government

What becomes apparent when analyzing the texts is the complete opposite narratives presented by the international institutions and the Greek government when portraying the Greek discourse on migration. The international texts have a negative, almost accusatory, tone and calling Greece out on their discriminatory, exclusionary and criminalising policies, whereas Greece does not seem to take any responsibility or admit to any wrongdoing whatsoever. Texts **one**, **two** and **three** all describe policies and mechanisms employed by Greek official and the Hellenic Police at the border which clearly establish violations and abuse of migrants. This includes the use of pushback, which seems to be documented not by one, but by several reliable sources.

In text **six**, the response of the Greek Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Greece from 13 to 17 March 2020 (Council of Europe, CPT/Inf (2020 36, Strasbourg, 19 November 2020), there are no admissions to any of the allegations set out in text **three**.

While the texts from the international institutions could be read as being interested in transforming existing power structures. The Greek discourse is exclusionary and discriminatory in nature. In investigating policies of exclusion, Wodak explores exclusion in relation to citizenship. Wodak refers to an everyday nationalism, creating a divide between “us” and “them” and states:

“The banal nationalism of nation states is vague about who exactly “we” are sometimes the particular “we” of the nation means the general “we” of all “reasonable people”. In other

cases, the “we” is very clearly defined and restricted to memberships of certain groups” (2012, p. 406).

It appears from the analysed texts that the Greek authorities, by implementing exclusionary measures, creates a divide between ‘us’, the Greek state, and ‘them’, which includes migrants and HRD’s.

These discourses reinforce the importance of bottom-up social movements, asserting that the problems facing migrants in Greece are not due to actions taken by the migrants, but due to inequitable treatment within state policies and structures.

5.2 Human Rights Violations

Unfortunately, as has been demonstrated in this study, the reforms implemented by the Greek government is reproducing current migration discourse which continues to criminalise migrants and humanitarian workers, encourage exclusion, be discriminatory and often in direct contravention of international law (Expert Council on NGO Law 2020, UNHCR 2020).

5.2.1 Background of Texts

On behalf of Oxfam and WeMove Europe consortium, Oxfam developed a document called “Complaint to the European Commission Concerning Infringements of EU Law by Greece” in September 2020 ²¹. The document lists a range of infringements of EU law by the Greek government. It accuses Greek authorities of forcing migrants back over land and sea borders without consideration of their individual circumstances and without any possibility to apply for asylum or to put forward arguments against the measures taken (Oxfam, 2020, p. 39). Rights groups and aid organisations, including the UN refugee agency and UNHCR, have increasingly expressed concern, saying the practice of pushing back migrants without due process is in contravention of international law. The document will not be a part of this study as it is too extensive and due to the word limit of this study, a comprehensive study would not be possible. In addition, more recent legislation has been implemented. It does, however, show a history of infringements of EU and international law by the Greek government.

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The asylum procedure in Greece has been subject to considerable reforms since 2016, many of which was driven by the adaptation of the EU-Turkey statement on 18 March 2016 (Asylum Information Database, European Council on Refugees and Exiles (ECRE), 2021). Following the July 2019 elections, the new Greek government announced a more restrictive policy on migration and asylum, with the aim of reducing the number of arrivals, increase the number of returns to Turkey and strengthen border control measures (AI 2019, ECRE 2021). As a result, the Greek government implemented the new IPA was legislation, which replaced and drastically revised the previous legislation on asylum and reception (ECRE 2021).

The IPA has been heavily criticised by international and national human rights bodies including the Greek Ombudsman, the Greek National Commission for Human Rights (GNCHR), UNHCR and several civil society organizations.

The following texts will be reviewed to analyse the violations of international and EU law by Greece identified in this study:

Text seven is the UNHCR Comments on the Law on “International Protection and other Provisions”, UNHCR, February 2020.

Text eight is a letter to the Greek President from the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the human rights of migrants, (Reference: OL GRC 1/2021, 31 March 2021).

Text nine is the Expert Council on NGO Law, “Opinions on the Compatibility with European Standards of Recent and Planned Amendments to the Greek Legislation”, Prepared by the Expert Council on NGO Law of the Conference of INGO’s of the Council of Europe, 2 July 2020.

5.2.2 Violations Through Legislation

Texts **seven**, **eight** and **nine** all deal with potential breaches of international and EU law in Greece’s legislation on asylum and NGO’s. The state party must ensure strict compliance with international and EU law, including the principle of non-refoulement and asylum applications must be considered on its merits (UNHCR, 2020). It has been debated whether the migration discourse developing in

Greece, including the changes to the asylum procedure is within Greece's international obligations (UNHCR 2020).

Text **seven** is produced by the UNHCR and the document addresses how the IPA is not in conformity with international and EU law and therefore in violation of migrants' human rights.

Text **eight** relate to the recently adopted Law 4686/2020 (hereinafter: the Law on NGO's) and Joint Ministerial Decision 10616/2020 (JMD), which introduced new onerous legal requirements and conditions for registrations of non-profit organizations (NGO's) that work with migrants and refugees.

Finally, text **nine** sets out the Expert Council on NGO's opinion on the Compatibility of recent and planned amendments to the Greek legislation on NGO registration with EU law.

All three texts are written with a formal tone and the language is highly legalized. They are all meant for interpreters with *background knowledge* of legal terms and phrases:

"...promoting the conclusion and ratifications of international conventions for the protection of refugees, supervising their application and proposing amendments thereto",

and

"UNHCR's supervisory responsibility under its Statute is reiterated in Article 35 of the 1951 Convention"

According to Fairclough, the stage of interpretation is concerned with participants' processes of text production as well as text interpretation (Fairclough, 2015, p.155). That is, the *background knowledge* already inherent in the interpreter determines what the interpreter takes from the text. In this case, a person with no or limited knowledge of legal terms is less likely to be able to assign meaning to the constituent parts of the text, "the utterances" (Fairclough, 2015, p.156).

The texts are expressing concern regarding the development in Greece's migration discourse. All three texts have a language which places an obligation on the interpreter with use of relational modality verbs (Fairclough, 2015, p.142):

Text seven:

“...remedial actions should include a significant and rapid increase...”

“UNHCR is concerned that the Law is introducing stringent procedural requirements and formalities which an asylum seeker should not reasonably be expected to fulfil”

Text eight:

“We are concerned that the Law on NGOs and JMD may have a significant and detrimental impact on the operations of all civil society organizations working with migrants and refugees in Greece, including those that provide essential services to them”.

The text goes on to state:

“...the Law on NGOs and JMD unnecessarily and disproportionately restrict the right to freedom of association, as provided by Article 22 of the International Covenant of Civil and Political Rights (ICCPR), ratified by Greece on 5 May 1997. On 12 May 2020 the Government published Law 4686/2020 (the Law on NGOs) introducing new legal requirements for registration in article 58. The JMD 10616/2020 which gives more details on the new law was only published four months later, on 10 September 2020, leaving many NGOs working with migrants and refugees in legal uncertainty in the months between.”

These laws have been under scrutiny from several national and international organisations and has been the recipient of heavy criticism.

ECRE stated in Concerning the lawfulness of Greek legislation regulating the registration of non-governmental organisations (NGOs) on the Registry of NGOs working with refugees and migrants in Greece December 2021:

“The current legal framework, as established and amended by the last two JMDs, has been heavily criticised by civil society organisations, the Council of Europe and in the context of the UN Special Procedures. It has also been subject of a question at the European

Parliament. The criticism focuses on the lack of meaningful public consultation before the adoption of the framework, the excessive requirements for registration/certification, the designation of the latter as a precondition for NGO activities, the introduction of seemingly unlimited discretion to deny registration or remove NGOs from the registry on the basis of vague criteria, and the absence of effective remedies. According to the reports, such a framework can interfere with the freedom of association by establishing a situation of legal uncertainty and restricted guarantees that could create significant obstacles in the free development of NGO activities in Greece.”

The three texts identify several provisions of the Greek legislation which is not in accordance with international and EU law.

Violations of and provisions that may lead to violations of international and EU law in IPA as identified by UNHCR in text **seven** include:

“...a risk of violation of the principle of non-refoulement”

The UNHCR expresses concern that the Law is introducing stringent procedural requirements and formalities which an asylum-seeker should not reasonably be expected to fulfil, resulting in a de facto denial of rights as it would be impossible to exercise these rights in practice or to gain access to the asylum procedure. If this results in the person being returned that would constitute an infringement of the principle of non-refoulement, prohibited under the 1951 Refugee Convention, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and regional instruments including the Charter of Fundamental Rights of the European Union (CFR). In addition, not gaining access to the asylum procedure, the person’s right to seek asylum would be denied, which is prohibited under Article 14 of the UDHR. Several violations were found, however the focus will be on those affecting the asylum, detention and returns provisions.

Article 46 - Detention of Applicants of IPA states:

“UNHCR is concerned that the law introduces several additional provisions allowing for the detention of applicants, which undermine the general legal principle that the detention of applicants, which undermine the general legal principle that the detention of asylum seekers should be exceptional and only resorted to when necessary to achieve a legitimate purpose”

This would violate Article 31 of the 1951 Refugee Convention and Article 8 of the Directive 2013/33/EU”.

Article 46 para. 2 and para. 3

“...expands the possibility of detention even for applicants who are not being detained in view of return/deportation procedures, contrary to the provision of Article 46 para.2 L4375/2016, which provided for the detention of applicants only in case they have already been in detention in view of a return decision”.

“L. 4375/2016, previously in force, provided that the detention order may be issued only upon recommendation of the Asylum Service, unless the applicant constitutes a danger for national security or public order. However, para.3 of Article 46 of the Law provides that the Asylum Service does not issue a recommendation but shares only information with the competent Police Director who then issues the detention order irrespective of this information. This means that police may order detention even on the basis of asylum-related reasons and although the Asyly service considers that detention cannot be justified.”

UNHCR highlights this is not in line with Directive 2013/33/EE and may lead to arbitrary detention.

Article 39 para. 10 (b) and (c) in combination with Article 81 para. 2 (h) on consequences of refusal to transfer in the context of first reception and identification procedures and second-line reception.

“UNHCR notes that these provisions create a non-rebuttable presumption that the non-compliance with a ‘transfer decision’ in the context of first reception and identification procedures signifies that the applicant “hinders submission or the continuation of the examination of an application for international protection” leading to his/her application being considered as implicitly withdrawn. Therefore, if an application for international protection has been submitted, it is directed to prioritized procedures, its examination is accelerated and shall be concluded in 20 days and Article 81 para. 2 (h) suggests that it shall be rejected as unfounded in all cases”.

UNHCR notes these provisions are not in compliance with Articles 31 (8) and 28 of the Asylum Procedures Directive 2013/32/EU, 2013.

The concept of modality is to do with the authority of the writer of the text and is a form of relational values and according to Fairclough modality has two dimensions (Fairclough, 2015, p.142). Relational modality which occurs when it is a matter of authority by one participant over another and expressive modality which occur when it is a matter of the speaker's authority with respect to the truth or probability of a representation of reality, that is, the speaker/writer's modality of the truth. So, modality clarifies the degree of the speaker's commitment to the statement that is being made and lends authority to that statement.

It seems the Greek government continues their exclusive policies and use of deterrence practices despite the advice given from international human rights institutions. This seems to indicate the Greek government values its own judgement and sovereignty over their migration discourse and border control more than ensuring they comply with international and EU law. Value systems can be regarded as belonging to particular discourses. A particular discourse includes assumptions about what there is, what is the case, what is possible and necessary. These are meanings of particular ideological significance (Fairclough, 2003, p. 58). In this way, the producer conveys that its ideology finds it more important to keep the numbers of migrants receding in Greece low, than listening to the UNHCR.

6 Conclusion

The aim of this study has been to contribute to the field of human rights by critically analysing the migration discourse in Greece and how it is affecting migrants and HRD's. The study utilised Wodak's concepts of exclusion and discrimination together with Fairclough's method of CDA to critically analyse official documents from both international and Greek text producers. This provided the opportunity to explore the Greek migration governance and how the implementation of stricter legislation by the Greek government pertaining to both migrants and HRD's has impacted their fundamental rights.

The analysis has revealed the legislation implemented by the Greek government and border control mechanisms imposed by Greek authorities, for example the extensive use of pushbacks, has resulted in a pattern of discriminatory and exclusionary discourse. This has often resulted in refusing migrants access to their inherent fundamental rights as established under EU law and other international directives and conventions. In addition, the implemented legislation has imposed restrictions and cumbersome registration rules that creates significant challenges on the ability of NGO's to operate within Greece.

The analysis revealed the legislation implemented by Greece is, in a number of areas, not in accordance with international directives and conventions and EU law. The migration discourse has its focus on deterrence practises and border management rather than focusing on respecting the fundamental rights of migrants, such as the right to seek asylum and the right to life, in addition to HRD's right to freedom of assembly and association. This is particularly concerning when the implementation of hegemonic powers is over the marginalised and most vulnerable in the population at the cost of their human rights. Such deterrence practices are also inhibiting the ability of HRD's to assist migrants to perform a life-critical role primarily through the fear of persecution and legal prosecution. This criminalisation through legislation is in itself restricting the fundamental human rights of HRD's as individuals.

The analysis on the implemented legislation also revealed a discourse founded on criminalisation of migrants and HRD's by adopting a culture of fear as a means to (1) increase power, (2) reduce migrants ability to access the right to asylum, and (3) reduce the civic space in which HRD's operate.

The overarching aim appears to be to minimise the influx of migrants by implementing increasingly strict and cumbersome legislation.

One of the objectives of the analysis was to examine to what extent hegemonic power relations were being maintained and reproduced in this discourse challenging the human rights of migrants and HRD's. This study has displayed how power over discourse is defining and shaping the realities of migrants and HRD's in addition to demonstrating how Greece aims to maintain and reproduce power structures to achieve hegemonic control. The hegemonic structures produced by the Greek government have established a dominant ideology which is being reproduced through the development of the current migration discourse.

Following the analysis, unfortunately there appears to be an overwhelming amount of data both from International and EU institutions documenting the numerous violations conducted by the Greek government. The use of pushbacks, the implementation of legislation not in accordance with international and EU law, the legal uncertainty in the legislation resulting in arbitrary application of the laws often results in infringements of both migrants and HRD's

In this regard, in addition to adding to the ongoing debate it is hoped this study, together with more scrutiny being given to any law or policy which is infringing on anyone's human rights, in this case those of human rights defenders and migrants, can change the current discourse.

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