University of Oxford

Refugee Studies Centre

RSC Working Paper No. 34

Asylum and Childhood in the UK: A Highly Political Relationship

Clotilde Giner

clotilde.giner@gmail.com

October 2006

This paper was originally submitted in partial fulfilment of the requirements for the Degree of Master of Science in Forced Migration at the Refugee Studies Centre, University of Oxford

Working Paper Series

Queen Elizabeth House
Department of International Development
University of Oxford

The **RSC Working Paper Series** is intended to aid the rapid distribution of work in progress, research findings and special lectures by researchers and associates of the RSC. Papers aim to stimulate discussion among the worldwide community of scholars, policymakers and practitioners. They are distributed free of charge in PDF format via the RSC website. Bound hard copies of the working papers may also be purchased from the RSC.

The opinions expressed in the papers are solely those of the author/s who retain the copyright. They should not be attributed to the project funders or the Refugee Studies Centre, Queen Elizabeth House or the University of Oxford. Comments on individual Working Papers are welcomed, and should be directed to the author/s.

Refugee Studies Centre
Department of International Development (QEH)
University of Oxford
3 Mansfield Road
Oxford OX1 3BT
United Kingdom

Tel +44 (0)1865 270722
Fax +44 (0)1865 270721
E-mail: rsc@qeh.ox.ac.uk
Web: www.rsc.ox.ac.uk

CONTENTS

LIST OF ACRONYMS

ADSS	Association of Directors of Social Services
AVID	Association of Visitors for Immigration Detainees
BASW	British Association of Social Workers
BID	Bail for Immigration Detainees
CRAE	Children's Rights Alliance for England
CRC	United Nations Convention on the Rights of the Child
DfES	Department for Education and Skills
ECM	Every Child Matters
HASC	Home Affairs Select Committee
ILPA	Immigration Law Practitioners' Association
IND	Immigration and Nationality Directorate of the Home Office
JCHR	Joint Committee on Human Rights
LA	Local Authority
NAM	New Asylum Model
NASS	National Asylum Support Service
NGO	Non-Governmental Organisation
NHS	National Health Service
NSPCC	National Society for the Prevention of Cruelty to Children
RCC	Refugee Children's Consortium
UNHCHR	United Nations High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund

INTRODUCTION

I want to say at the outset that this is difficult territory for us all. We face the competing imperatives of wanting a fair system that treats all applicants in the same way and having to attend to the possible consequences for the families affected by the measure
(Beverley Hughes, former Minister for Citizenship and Immigration, SC Deb (B) 15/01/2004 c197).

The 'difficult territory' Beverley Hughes refers to is the way to consider and make policy on asylum-seeking children and families. According to her statement, the difficulty comes from the fact that the current British asylum system may impact negatively upon the well-being of families with children. This raises many questions that this thesis aims to address: What is the nature of the relationship between childhood and asylum in the UK? How do these constructions interact in the policy-making process and political debates on asylum-seeking children in families? What are the wider implications of these interactions for the design of the British asylum system in terms of standards set?

This thesis aims to understand the reason why negotiation of the relationship between asylum policy and the well-being of asylum-seeking children has been particularly challenging in recent years. Its overall objective is to comprehend the nature and the implications of the relationship between childhood and asylum in the UK. It specifically investigates the theoretical, political and rhetorical frameworks applying to asylum-seeking children within families ('accompanied' children). It focuses on the actors involved in making, influencing and implementing policy: especially the Government, Members of Parliament (MPs), civil-society organisations, civil servants and, at the margin, the media. Indeed, despite the strong children's rights movement which advocates for children's participation and promotes a view of children as empowered agents, adults are still the ones deciding upon children's lives. In the case of asylum-seekers, this impression of exclusion is reinforced by the absence of engagement by refugees and asylum-seekers in the processes that lead to the formulation of policy.

For the purpose of the research, there is a need to first concentrate theoretically on the notion of the child and the asylum-seeker. Despite the common public conception that these terms are clearly defined, both childhood and asylum are fluctuating constructions depending on social, economic, political and historical contexts, building upon previous, sometimes contradictory constructions (Turton 2003; Ariès 1960). The prevalent constructions and their current interpretation in the post Cold-War context will be analysed.

Building upon the theoretical analysis, the second section examines the UK's child and asylum policy framework and the place accorded to asylum-seeking children within it. It first concentrates on the UK's political commitment to childhood at both the international and national level, and the extent to which it applies to asylum-seeking children. It then briefly analyses current trends in British asylum policy, especially regarding asylum-seeking children and families. The potential tension between the UK's commitment to childhood and its will to maintain firm immigration control will be carefully examined throughout this section.

The contingent construction of the asylum-seeking child within the policy framework calls for a direct analysis of debates between the state and its opponents. The third section studies the mobilisation of civil-society organisations, their advocacy aims and tools. It then examines the arguments put forward by opponents and proponents in debates around two of

the Government's most publicised decisions relating to asylum in recent years: (i) section 9 of the 2004 Asylum and Immigration Act[1] and (ii) the detention of accompanied asylum-seeking children in immigration removal centres. Analysing these debates will help us to understand how the constructions of the child and the asylum-seekers interact in actors' discourses and how this interaction is used to justify political action on a wider scale.

This study finally argues that the controversy over asylum-seeking children does not result from a diverging understanding of childhood between the state and its opponents. Instead, divergence arises first and foremost in relation to the consideration given to adult asylum-seekers and the standards set for the entire asylum system. It appears that the consensus on the vulnerability of the child has not yet been able to redress the relatively negative way in which asylum-seekers are depicted, nor to raise the standards in terms of treatment and processing of asylum claims in the UK. State and asylum advocates agree that similar standards should be applied to every asylum-seeker. However, while the state argues in favour of applying a system based on deterrence, with the exclusion of welfare provisions and detention as central measures, asylum advocates point to the flaws of the current system and argue in favour of a child-centred asylum system that takes into account each asylum-seeker's human rights.

Methodology

This research has required knowledge of the sociology of childhood and deviancy, as well as the analysis of international and domestic legislation on child welfare and asylum. The policy background has been examined through a discourse analysis (reports of NGOs, parliamentary debates, Government's reports and written evidence, newspapers). Given the importance of language in this issue, a discourse analysis is the most appropriate method to understand how human subjects are constructed (James and Prout 1997). However, there are clear limitations to the degree to which generalisations can be drawn from findings based upon this type of research (Kaye 1998). I thus decided to conduct interviews with some of the main actors involved in the policy-making process to explore my provisional findings. Though it has proven impossible to interview a civil servant at the Home Office, the sample allowed an interesting insight into the different positions defended. Four semi-structured interviews were conducted (Appendix 1), as well as two written questionnaires sent and received. I interviewed Neil Gerrard MP (Labour), Chair of the All Party Parliamentary Group on Refugees; Nancy Kelley, Head of UK and International Policy at the Refugee Council, formerly at Barnardo's; Lisa Nandy, Policy Adviser at the Children's Society and Chair of the Refugee Children's Consortium and Kate Moger, Development Officer at Save the Children. A representative of the Association of Visitors for Immigration Detainees (AVID), and Alistair Burt MP (Conservative) filled in written questionnaires. The views expressed by the interviewees do not necessarily reflect those of the organisation or party they belong to.

In the third section, the analysis focuses on debates around section 9 of the 2004 Asylum and Immigration Act and detention that have taken place between December 2003 and now. The intense debates around unaccompanied asylum-seeking children or the setting up of accommodation centres in 2002 would also have been appropriate issues to consider. The focus on children within families as opposed to unaccompanied asylum-seekers is justified by the particular interest in studying the argument around the responsibility of parents.

[1] I have decided to refer to 'section 9' rather than 'Section 9' since it is the formulation used in official documentation.

Ethical concerns

Asylum is a highly politicised issue in the UK. Asylum-seekers and those working to support them can face considerable hostility. I thus used the information gathered responsibly, in order not to make the position of the persons concerned by the research or the interviewees more difficult (Finch 1984). I have been careful not to over-interpret the results of the research and to stick to my findings. In the thesis, dependants of asylum-seekers are referred to as asylum-seeking children. For the purpose of accuracy, this was preferred to the more general expression 'refugee children' used by civil-society organisations. I am, however, aware of the risk of intensifying stereotypes by referring to asylum-seekers.

1. THE CHILD AND THE ASYLUM-SEEKER AS SOCIAL CONSTRUCTS

Issues relating to children and asylum-seekers have become objects of much study and debate in Western societies, including in the UK. These two separate fields meet when the 'asylum-seeking child' is the object of research. Yet, any attempt to engage with the relationship between childhood and asylum would be in vain without preliminary study of what is understood by the 'child' and the 'asylum-seeker' in the current context and what this understanding may imply for the 'asylum-seeking child' as a political object.

Childhood and asylum are concepts that we encounter in our everyday life. If one does not have or does not work with children, everyone at least has been a child and can associate specific elements to childhood. As far as asylum-seekers and refugees are concerned, there may be less physical or emotional interaction, but this is a common topic raised in the media and political debates. This everyday use often prevents us from reflecting further upon these notions and from questioning their meaning and the implications for the persons defined as 'asylum-seekers'. One has, however, to be aware of the high degree of constructedness surrounding childhood and asylum. In neither of the two cases do we deal with a natural and self-evident state. On the contrary both terms, as they are commonly understood, appear to be 'the result of our social and cultural conventions' (Turton 2003: 3). As argued by Turton, 'forced migration [as much as childhood] is not something we discover but something we make' (2003: 3). People are involved in and influenced by different contexts and feel concerned by diverging situations. As such, conceptual maps and understandings may differ between people, communities, countries and cultures. It is precisely these differences which give rise to debates. The inability to bridge conceptual maps and linguistic practices hinders common understanding on a specific issue and hence makes collective action impossible (Turton 2003). My paper will consider the extent to which conceptualisations of asylum-seeking children are shared and the implications this has in terms of collective action and policy making.

Both states, childhood and refugeehood, only apply to specific groups of people. While the legal boundaries of childhood are defined by setting an upper age limit (UN Convention on the Rights of the Child 1989 art. 1), refugees are legally defined by having experienced specific circumstances as defined in article 1 of the UN Convention relating to the Status of Refugees. One has to bear in mind that both legal definitions are contingent in the limits set, their interpretation and implications, and the exclusion they may create.

Ariès' *L'Enfant et la vie familiale sous l'Ancien Régime* (1960), was the first notable study of childhood challenging universalistic notions of childhood over time and space (Stephens 1995). Stating that, in medieval society, there was no awareness of the particular

nature of childhood, Ariès argues that childhood is to be understood as a 'social construction' (James and Prout 1997: 3). This position has inspired a wide range of historians and sociologists to explore the social and historical context that surrounds childhood in its theoretical construction (Jenks 2001). Hence, the 'modern conception of childhood is neither a simple nor a straightforwardly coherent one since it is constituted by different theoretical understandings and cultural representations' (Archard 1993: 40).

The various conceptions of forced migration are also extremely complex. As argued by Shacknove, there is no precise definition of what is a refugee. He argues: 'the conception of refugee is not, strictly speaking, a definition. There are dozens of definitions' (1985: 275). It is the different conceptions of what it is to be a forced migrant that create the different sub-categories: the legally defined refugee, the internally displaced person, the development induced displacee, and the asylum-seeker. Even within these commonly agreed categories, conceptual understandings tend to differ greatly.

The Western child, between vulnerability and deviance

Though there are various representations of childhood I will focus on two prevalent images of the child in the West: the 'sacralised' child living in a protected environment, and its deviant appearance, the unruly and potentially troublesome child who has lacked protection.

According to historians and sociologists the 'sacralisation of childhood' (Cunningham 2005: 193) can be traced back to the late 19th/early 20th century in both the United States (Zelizer 1985) and Western Europe (Hendrick 1997). The 19th century economically useful working child was replaced by the 'twentieth-century economically useless but emotionally priceless child' (Zelizer 1985: 209). Children were accordingly constructed as innocent and in need of separation from the adult world because of their particular vulnerability (Boyden 1997: 191). The association of childhood with innocence is deeply embedded in Western literary and religious culture, directly relating to Rousseau's conceptions of childhood (1762) and to the early Romantics. Children - guiltless and innocent - cannot sin since they do not know how to (Archard 1993). As such, they occupy an innocent world, a 'garden of delight' (Cunningham 2005), justifying their 'physical segregation' (Hendrick 1997: 12) from the adult world. While adults earn money at their work place, make law and policy, can be judged and put in prison, children learn and play at school and within the family, far from adults' preoccupations (Heywood 2001). It is, furthermore, widely understood that children, because of their particular vulnerability, have to be protected in order for them to enjoy this stage of life (Hart 2006). The parents are to play a key role in maintaining such separation and providing the necessary protection.

The popular view of the family as 'a haven in a heartless world' (Lasch 1977) has, however, been eroded by increasing concerns about parental irresponsibility leading to children's antisocial behaviours. Youth crimes and acts of violence have highlighted the 'darker side of children's nature' (Boyden 1997: 193), whose innocence can no longer be taken for granted (Fionda 2001). As stated by Boyden 'governments tend to blame the problems of child development and the neglect or abuse of children on the collapse of family' (1997: 193). As such, the deviance of the family and the decline of parental authority will deprive the child of a proper childhood (Cunningham 2005) and potentially make her dangerous for society.

In parallel, abuses and neglect within families have, since the second half of the 20th century, raised awareness among legal scholars and policy-makers of the necessity to pay attention to children's own views and rights as children, which has found its expression in the 1989 UN Convention on the Rights of the Child (CRC) and recent national legislation. Since children may have to be protected from their own parents, the state may be justified in intervening. The CRC and domestic legislation are aimed at regulating the triangular relationship between the child, the family and the state, since the child, still considered as lacking full maturity and rationality, remains dependent either on the 'benevolent guardianship [of her parents or] of the state' (Fionda 2001: 9). There has been an acknowledgement of the diminution in parental rights over children and a growth in the importance of parental and state's duties towards children (Brannen and O'Brien 1996) in order for the child to both enjoy a proper childhood and be protected from harm or deviance. As stated by Jenks, the conception of the child as a vulnerable person 'has set the public standards for our demeanour towards the child, and for expectations of policy and provision in relation to the child' (2001: 26). In the case of the unruly child or family, the state seems to be justified in taking steps against either the family or the child to ensure the protection of the child, and, further, the protection of the society.

From the vulnerable refugee to the undeserving asylum-seeker

The construction of the 'good/bad' child and family finds echo in the construction of the 'good' forced migrant, the 'genuine' refugee, and its rather recent 'deviant' shadow, the 'bogus' asylum-seeker. Drafted and ratified in the early Cold War period, the 1951 Convention enshrined a limited definition of the refugee as an individual fleeing her own country because of a genuine fear of persecution. Western states were prompt to respond to the moral claim made on them by refugees and to commit to their protection, since most of them were constructed as victims of the non-democratic Soviet Bloc and its allies (Bloch and Schuster 2002). As 'genuine' political refugees fighting against communist oppression, they deserved compassion, and by extension, welfare support in the host country.

However, the collapse of the Soviet Union suddenly put an end to the need for political signifiers of Cold War politics (Chimni 1998). Hence, in the 1990s, the once 'morally untouchable category of the political refugee' (Cohen 2002: xix) was deconstructed and replaced with the construction of the undeserving and bogus asylum-seeker (Schuster and Welch 2005), i.e. an individual fraudulently claiming asylum at the port of entry or within a state (Gibney 2004). In the UK, Government and public alike, largely driven by the tabloid press, have come to question with increased suspicion the genuineness of asylum-seekers' claims. Hence, only a small percentage of asylum-seekers have been recognised as vulnerable and genuine refugees fleeing persecution and unsafe circumstances and, as such, entitled to compassion and protection. Asylum advocates, however, still defend the construction of the asylum-seeker as a forced migrant in distress in order to fight against the pernicious effects of stereotypes. However, the majority of the asylum-seekers have been construed as disguised economic migrants attracted by the welfare state. Their moral claims on the state have been systematically rejected, making them undeserving of any kind of compassion or protection.

The importance of the post Cold-War context

The end of ideological Cold War rivalries has opened and expanded the objects of political concern on the international scene to identity politics and single issues (Pupavac 2002), like childhood and asylum. In particular, the end of the Cold War has been accompanied by the 'expansion of refugee studies' (Chimni 1998: 351), due to the arrival of

the ‘new asylum seekers’ in the West. It has also increased the international significance of children ‘through convergence of particular political, social and economic processes’ (Pupavac 2002: 61). Pupavac argues that this process of rethinking can be traced back to the moral, social and political malaise characterising contemporary Western culture and society (2002). The international elevation of the child as a moral touchstone truly appears as the expression of Western society’s anxieties about the future. In the meantime, the construction of the myth of difference with regard to the ‘new asylum-seekers’ has been used by public, media and policy-makers as one of the explanations for the increasing lack of social cohesion in Western societies. Hence while current child policies have aimed to preserve the special place assumed by children in contemporary Western culture (Pupavac 2002: 61), a collapse of asylum has taken place, eroding the level of protection accorded to actual asylum-seekers. It appears that children and asylum-seekers, as they are constructed, have the potential to create a high degree of consensus on issues relating to them: a consensus in favour of inclusive measures for children and exclusive measures for asylum-seekers. We need to ask, therefore, about the implications for those who fall within both categories, that is to say, asylum-seeking children.

Given the variety and complexity of constructions regarding both children and refugees/asylum-seekers, one can reasonably wonder which construction(s) is/are likely to be applied to accompanied asylum-seeking children and how they will interact together. How might the image of the child as innocent and vulnerable protected by her loving family interact with the current construction of the ‘bogus’ asylum-seeker? Will the asylum-seeking child be ascribed the characteristics of the undeserving migrant? Will a host society aim to protect an asylum-seeking child as much as it does its own children or will the fears over asylum supersede such consideration? I will now use this theoretical background to understand the subtleties of the policy framework applied to asylum-seeking children in the UK.

2. THE POLICY FRAMEWORK FOR ASYLUM-SEEKING CHILDREN IN THE UK: BETWEEN COMMITMENT TO CHILDHOOD AND IMMIGRATION CONTROL

The previous theoretical analysis has highlighted the elevation of the Western child to the status of moral touchstone, and the concomitant collapse of the state’s willingness to provide asylum at the end of the Cold War. This section moves on to examine the standards set for asylum-seeking children within both recent child policy and asylum policy in the UK. It first concentrates on the political commitment to childhood at international and national level, and the extent to which it applies to asylum-seeking children. It then analyses current trends in British asylum policy, especially regarding asylum-seeking children.

Asylum-seekers within the UK’s child policy framework: the political character of recognising children’s rights

A number of recent international and national developments have considerably transformed the child policy framework in the UK, with the aim of ensuring the well-being of the ‘elevated child’. The 1989 UN Convention on the Rights of the Child (CRC) has in this regard played an important role. The UK ratified the CRC in 1991 (UN Committee 2002), only two years after its adoption by the General Assembly. As much as the 1951 Geneva Convention defines refugees as a rights-generating category, the CRC enshrines universal rights children are deemed to have as children (Bentley 2005). In signing and ratifying the

CRC, states parties have agreed to take the best interests of the child into consideration in all actions undertaken, to care for a child whose rights have been violated and to encourage the participation rights of children (Veerman 1992). The CRC assigns to children a vast array of rights, which it is the obligation of signatory states to protect (Brighouse 2002). However, the text of the CRC strongly suggests that parents do have duties towards their children (CRC, article 3.2, article 5).

One might assume that the rights of children would not be the subject of much debate since children tend to be considered as non-political actors. However, an analysis of the drafting and ratification process of the CRC reveals another picture, i.e. the highly political character of showing commitment to children and the nature of that commitment. While states parties were willing to show their commitment to children, the nature and extent of this commitment has been constrained by various political issues and states' interests. Already the length of the drafting process – 10 years from the beginning of the discussions to the CRC's ratification – indicates the compromises and negotiations of the particular drafting time, i.e. at the end of the Cold War (Bentley 2005). Ironically, the extended scope and the universal ratification of the CRC are due both to the ideological rivalries between the Western and the Soviet bloc before 1985 and the collapse of the Soviet Empire (International Save the Children Alliance 2000).

The intense and longstanding debates around the principle of the best interests of the child (article 3) further indicate the highly political character of recognising children's rights and the limits to the commitment to children (Veerman 1992). The best interests principle, considered as the major building block in the philosophy of the CRC (Hammarberg and Holmberg 2000), raised many concerns as to whether it should be *a* primary consideration, *the* primary consideration or *the paramount* consideration in actions undertaken (Alston 1994). It was finally decided that the best interests of the child would be a primary consideration. The drafters' preference for the indefinite rather than the definite article indicates that the child's best interests are not to be considered as a single overriding factor in the decision-making process (Breen 2002). Furthermore, despite lengthy debates on how best to formulate the article (Alston 1994), the particular content of the best interests principle was not discussed. Nowhere in the Convention is it stipulated what the 'best interests of the child' are. As a consequence, despite the fact that the article is supposed to give the overall framework of the Convention, it remains inherently subjective. Indeed, as stated by Veerman, anybody can 'make a case in the best interests of the child' (1992: 188). Its interpretation is inevitably left to the judgement of the person, institution or organisation applying it[2] (Detrick 1999).

Article 22 of the CRC, specifically referring to refugee children, has also been subject to intense political negotiations. In including this article, states were willing to acknowledge the double vulnerability of refugee children, as children and as refugees. However, as argued by Van Bueren, the article fails to expand the definition of refugees in relation to children beyond the 1951 Convention definition. Any expansion to internally displaced people and entire groups of people would have implied a need to add a corresponding amendment to the 1951 Convention in relation to adults, to which states showed a particular reluctance (Van Bueren 1995). The article is nevertheless to be applied equally to children recognised as refugees and asylum-seeking children (Detrick 1999), as well as failed asylum-seeking children (UN Committee on the Rights of the Child 1994). In a context of increased restrictive

[2] Only the Venezuelan representative raised her concerns on the degree of subjectivity of the standard in the absence of prior stipulation of its content (Detrick 1999).

asylum policies, the Committee wanted to make sure in its general guidelines for periodic reports that refugee and asylum-seeking children's rights would be enforced and their best interests be given primary consideration in 'immigration, asylum-seeking and refugee procedures' (UN Committee 1996). As such, article 22 and its enforcement is deeply embedded in the late 1980s' political questioning of the 1951 Convention definition and increased asylum restrictions in Western countries.

In November 1989, the CRC was approved by consensus and without modification (Bentley 2005). In 1990 the CRC had already been ratified by a third of all countries (Save the Children 2000) and almost universally now (except the US and Somalia) (UNHCHR 2006). However, this is only the glorious side of the picture that is highlighted when making a case of the CRC. In fact, this impressive rights-based commitment to children has been considerably mitigated by the reservations and interpretative declarations entered by a third of all states parties (Schabas 1996; Leblanc 1996). That states may want to limit the scope of the CRC is especially surprising given the consensus required for a provision to be included during the drafting process (Detrick 1999). The high number of reservations seems to partially compromise the overall effectiveness of the protection norms accorded to children through the CRC.

This analysis of the drafting and ratification process of the CRC has aimed to point out the intrinsic political character of recognising the rights and needs of children. States seem to hesitate between their apparent commitment to every child and less explicit state politics, a position from which the UK does not diverge.

The UK is keen to state that, since its ratification in 1991, the Government has always recognised the CRC as the 'international benchmark of children's rights' (Hodge in Joint Committee on Human Rights (JCHR) 2004b: 61). However, successive governments have shown a rather restrictive interpretation of this legally binding instrument. Hence, the UK still has not incorporated the provisions and principles of the CRC into domestic law (UN Committee 2002). As such, the Convention does not have any binding effect on UK law and cannot be directly taken into consideration in court decisions.

Furthermore, the UK acceded to the CRC on the basis of three reservations, including the immigration and nationality reservation (UN 1991).[3] This reservation seeks to remove the areas relating to migration and asylum from the scope of the obligations under the CRC. As stated in a legal opinion on the reservation, 'the reservation is in extremely broad terms and seeks to exclude children who are not given leave to enter from the scope of the CRC' (Blake and Drew 2001: 18). Since the CRC has been designed to protect all children, the Committee on the Rights of the Child have criticised the UK reservation on immigration and nationality for its incompatibility with the spirit and the objective of the Convention (UN Committee 2002). Following article 51 of the CRC on the prohibition of reservations incompatible with the object and purpose of the CRC, the Committee has repeatedly urged the UK to withdraw its reservation (JCHR 2003). But the UK Government argues that the reservation is 'necessary to preserve the integrity of immigration laws and procedures in the UK' (Lord Filkin 2002 quoted by JCHR 2003: 37), in the interests of effective immigration control. The main matter of concern for the state is that the CRC could provide the opportunity for children subject to

[3] The UK's immigration and nationality reservation states: 'The United Kingdom reserves the right to apply such legislation, insofar as it relates to the entry into, stay in, and departure from the UK of those who do not have the right under the law of the UK to enter and remain in the UK, and to the acquisition and possession of citizenship, as it may deem necessary from time to time' (UN 1991).

immigration control to gain entry and stay in 'mak[ing] use of CRC rights' (Lord Filkin 2002 quoted by JCHR 2003: 37). It would provide, the UK argues, new immigration and nationality rights on the basis of age (Children's Rights Alliance for England (CRAE) 2005). Government representatives have argued that there is no requirement to make the best interests of the child a primary consideration in matters falling within the reservation (Lord Filkin 2001). Crucially, the reservation on immigration acknowledges a conflict of interests between the state and migrant children: the 'best interests of the state' override the 'best interests of the migrant child'.

The UK Government's fear of a potentially binding effect of the CRC on its domestic legislation on nationality and immigration is questionable, however, since the CRC as a whole has not been incorporated into domestic law. As such, the CRC reservation seems to be primarily symbolic of the UK's reluctance to recognise the rights of asylum-seeking children as enshrined in the highly political CRC. Both the reservation and the non-enforceability of the CRC in domestic law acknowledge the power of individual states, in this case the UK, over a rather 'weak' international law on children.

I will now consider the approach taken by the Government to asylum-seeking children at the national level and investigate whether the framework that both the CRC and the reservation provide has been reproduced in the national child policy framework.

Since 1989, both the Conservative and Labour Parties have shown a commitment 'to improving the lives of children and young people' (Denham in All Party Parliamentary Group for Children 2002: 2). The Children Act 1989 brought together most previous private and public law about children (Department of Health 1997). It was thus considered 'the most comprehensive and far-reaching child-care law which has come before Parliament in living memory' (Lord Chancellor Mackay 1988 quoted by Hough 1995). Drafted following a series of high-profile cases of child abuse, the Children Act is intended to regulate the relationship between family and the state in relation to the care and upbringing of children (Aldgate and Statham 2001). From 1989 on, Local Authorities (LA) have been under the duty to safeguard and promote children's welfare, especially in relation to any child in need (Children Act 1989). It provides that LAs have the duty 'to protect children from the harm which arises from family breakdown or abuse within the family, but avoid unwarranted intervention in families' lives or unnecessary weakening of family ties' (Department of Health 1997: 2). The Children Act 1989 is particularly known for its opening statement of principle about welfare which states that, in judicial decisions relating to children, their welfare should be the paramount consideration (Children Act article 1). This provision is closely related to the best interests article of the CRC. Even though the welfare principle is less far reaching than the principle of best interests, the choice of the definite article *the paramount* consideration' gives it greater importance than the formulation '*a primary* consideration' as in the CRC. Furthermore, the Children's Act 1989 is more precise as to what is understood by children's welfare, offering the welfare checklist as an interpretation grid (Hough 1995). This provides that public actors should take into consideration the child's wishes, feelings and specific needs, current and future circumstances, their potential impact and harm, as well as family circumstances in order to come to the best solution for the child's well-being (Children Act art.1).

Despite the hope for a new child era raised by the Children Act 1989, recent high-profile child-abuse and neglect cases have 'exposed shameful failings in [the state's] ability to protect the most vulnerable children' (Department for Education and Skills (DfES) 2003: 5). As a response, the Labour Government published a Green Paper *Every Child Matters* (ECM),

marking the centre-staging of children in its social policy (Williams 2004). According to ECM, policy principles should not only target and protect specific groups with additional needs, but also focus on the improvement of children's lives as a whole (DfES 2003). The ECM framework aims to ensure that every child in the UK, national or non-national, will be healthy, stay safe, achieve educational outcomes, contribute to society and achieve economic well-being (Crawley 2006). Policy-makers became aware that this aim '[could not] be achieved by a single agency, [i.e. Local Authorities]. […] All staff must have placed upon them the clear expectation that their primary responsibility is to the child and his or her family' (Lord Laming 2003: 361). The resulting Children Act 2004 thus extends the duty to have regard to the need to safeguard and promote the welfare of children to almost all state agencies when they are carrying out their particular functions and have to deal with children (Children Act 2004; DfES 2005). This includes children's services, the NHS, the police and directors of prisons (Children Act 2004).

However, the requirement for state agencies to be 'child and family centred' (Lord Laming 2003: 361) does not apply to immigration and asylum agencies, such as the Immigration Service, the National Asylum Support Service (NASS) and immigration removal centres, since they have not been included in the above mentioned list. A clear parallel can thus be drawn between the symbolic exclusion of asylum-seeking children through the reservation to the CRC and immigration agencies' exclusion from the duty of having regard to safeguarding the welfare of children enshrined in the Children Act 2004 (JCHR 2004b). As in the case of the CRC reservation, the state points to the potential conflict with the need to maintain effective immigration control (Hodge quoted by JCHR 2004b), i.e in the case of detention or deportation. It would interfere with the ability of immigration agencies to remove failed asylum-seekers who have children. The then Children's Minister, Margaret Hodge, argued that duties in relation to children cannot be imposed on the Immigration Service since the immigration agencies' primary purpose is to ensure the implementation of immigration controls (Hodge quoted by JCHR 2004b). As in the CRC, the Government appears reluctant to extend its child-centred policy to asylum-seeking children.

The Government has been repeatedly asked to justify its decision regarding both the CRC reservation on immigration and the exclusion of immigration agencies from the obligations of the Children Act 2004. In both cases, the Government first referred to the necessity to maintain the integrity of the immigration system. Secondly it argued that, given its commitment to the welfare of children, such exclusion does not impact the welfare of asylum-seeking children (CRAE 2005). The Government considers that there are 'sufficient social and legal mechanisms in place to ensure that children receive a generous level of protection and care whilst they are in the UK' (Children's and Young People's Unit quoted by JCHR 2003: 98). This ambiguous discourse, informed by both the Government's tough stance on asylum and its commitments to children, has been widely criticised by the Committee on the Rights of the Child, UNHCR and human rights NGOs, and depicted as hypocritical given the increase in political restrictions to which asylum-seeking children are subjected.

Children and families within the UK's asylum policy framework

I will now investigate how this Janus-faced position of a strong commitment to children, on one hand, and the politically motivated exclusion of asylum-seeking children from the child policy framework, on the other, shapes the asylum policy framework and justifies the particular place accorded to accompanied asylum-seeking children within it. For this purpose,

one first has to briefly analyse the evolution in British asylum policy, in line with the construction of the 'asylum-seeker' as analysed in Section 1.

In the late 1990s the UK was faced with a sharp growth in the number of asylum-seekers (Gibney 2004),[4] which dramatically raised the public prominence of the asylum issue (Page 2004). It also considerably increased demands upon housing and welfare in the major areas of settlement (Home Office 1998; Audit Commission 2000). Shock headlines in popular media, referring to the United Kingdom as being 'swamped' by 'bogus asylum seekers' (Bagilhole 2003: 4) have since then been fuelling sensationalist public debates and largely contributing to the 'moral panic' arisen among the British population. Hence, since 1993 and the first Asylum and Immigration Act under the Conservatives, both Tory and Labour governments have been concerned to 'reassure the public that the right of asylum is not a weak link in an otherwise vigorously maintained immigration regime' (Layton-Henry 2004: 325). Thus, in the past thirteen years, six Asylum and Immigration Acts have been passed, as well as various official documents published, which all had serious implications for the future of asylum in the UK.

Since 1997, the Labour Government has mostly focused on the control of borders and deterrence policies for asylum seekers having reached the country. Each act and policy paper was meant to reduce the number of asylum applications, to cut down asylum support and to increase the number of removals of failed asylum-seekers (Home Office 1998, 2002, 2005). Aiming to rationalise the asylum procedures (Zetter *et al.* 2003) the Government introduced fast track procedures for determining applications judged to be manifestly unfounded or from 'safe' countries.

A continuous emphasis has been put on withdrawing asylum seekers from mainstream welfare provision in order 'to minimise the attraction of the UK to economic migrants' (Home Office 1998). The Government has restricted employment and housing rights, replaced cash payments by vouchers[5] and removed the access of late applicants and failed asylum-seekers to financial support. One of the most publicised measures, section 55 of the Nationality, Immigration and Asylum Act 2002, has removed welfare benefits to all in-country asylum-seekers without dependents who have failed to apply for asylum 'as soon as reasonably applicable'.[6]

In addition, detention has been increasingly used as a mechanism of immigration control. Before the 1990s, people detained were only over-stayers under the rule of the 1971 Immigration Act (Schuster and Welch 2005). Provisions in the 1999 Immigration and Asylum Act increased the number of places available in detention centres, marking the extension of the practice of detention. From 250 people in early 1993, the number of people detained increased to over 2260 ten years later (Schuster 2003). Asylum-seekers can now be detained at any stage of the asylum process, on arrival, waiting for the appeal decision or prior to removal (Cole 2003).

[4] The number of people applying for asylum in the UK rose from 27,685 in 1996-1997 to 51,255 in 1998-1999 to 79,125 in 2000-2001 (Gibney 2004). In 2001-2002, there were 84,130 applications for asylum in the UK, excluding dependants (Home Office 2002).

[5] This provision has since been suppressed.

[6] On 21 May 2005, the Court of Appeal ruled in the case of *SSHD v Limbuela, Tesema and Adam* that the Government should not withdraw support from applicants under section 55 unless it is satisfied that the individual concerned has some alternative source of support available to them, since it would amount to a breach of article 3 of the European Convention on Human Rights.

Restrictive measures are deemed to prevent potential asylum-seekers from coming and encourage failed asylum-seekers to leave the country. The Government's aim is to remove more failed asylum-seekers monthly than are processed as unfounded claims (McNulty, quoted by Home Office Press Office 2005). The Government wanted this aim to be achieved by the end of 2004, but it has not yet been successful (Fickling 2006).

In order to meet this policy target, the Government has increasingly focused on the groups of asylum-seekers that are more difficult to remove (Gerrard, interview, 2 May 2006). Thus, while the legislation passed in the 1990s tended to deal primarily with adult asylum-seekers, especially single males, the Government has in the past five years considerably rethought its policy for asylum-seeking children and families, with regard to the withdrawal of financial support, detention and removal. According to Crawley and Lester the Government's overall objective of increasing removal numbers and the fact that dependents are included in the removal statistics mean that families may be more rather than less likely to be detained than those without children. In addition, there are particular pressures to remove families for whom the associated support costs are higher. Also, it is often easier to locate families because they are more likely to access services for their children, particularly educational and health services (Crawley and Lester 2005).

The national policy on asylum-seekers' dispersal introduced in the 1999 Immigration and Asylum Act for all asylum-seekers (except unaccompanied minors) has had considerable impact on the school education of accompanied asylum-seeking children (Ofsted 2003). Subsequently, the 2002 Nationality, Immigration and Asylum Act enabled the State to set up accommodation centres for asylum-seekers, in which children would be educated outside the mainstream system.[7]

Furthermore, restrictions in access to welfare provisions have increasingly targeted asylum-seeking families. Thus, asylum-seeking families are entitled to less than 90% of the income support provided to destitute British families (Refugee Children's Consortium 2003). Under schedule 3 of the Nationality, Immigration and Asylum Act 2002 different categories of failed asylum-seekers without dependents were rendered ineligible for a range of support. However, under this act, a failed asylum-seeker would continue to be financially supported if the person had a dependent child under 18 as a member of his or her household (Immigration and Asylum Act 1999, s.94; Nationality, Immigration and Asylum Act 2002, s. 18). However, section 9 of the Asylum and Immigration Act 2004 added a new paragraph to Schedule 3 of the 2002 Act allowing NASS to withdraw support in the case where the Home Secretary can certify that a person with dependent(s) has failed without reasonable excuse to take reasonable steps to leave the UK voluntarily (Asylum and Immigration Act 2004, s. 9). As stated by the Government in its *Instruction for Caseworkers* dealing with section 9, 'the provision is designed to encourage families to leave the UK voluntarily and/or comply with re-documentation procedures which will enable them to leave the UK voluntarily' (Immigration and Nationality Directorate (IND) 2004: 2). After a five-stage process, including letters, interview and certification, if the family has not taken reasonable steps to leave, support is withdrawn. However, according to their duty to safeguard children's welfare, local authorities have to provide support under section 20 (child's accommodation) or section 17 (care) of the Children Act 1989 in the event of the child's welfare being compromised. This applies only to the child; local authorities are not able to provide accommodation and subsistence to any other member of the household. This has been the most criticised part of the Bill since, in case

[7] However, since local populations protested against the setting up of accommodation centres in their area, the Government's plan was suspended last year.

a family does not co-operate, social workers may have to separate children from their families as a result of withdrawal of NASS support (Children's Legal Centre 2006). The clause has been opposed from the beginning by a wide range of voluntary organisations, the Joint Committee on Human Rights, parliamentarians, as well as social workers and local authorities, protesting against the principles of the clause and its practical implications. The attempt by some parliamentarians to remove section 9 was not successful: only 82 MPs, including 26 Labour MPs, voted in favour of the removal.

In December 2004, the Home Office started piloting section 9 in three areas, Leeds, London and Manchester, where 116 families at the end of the asylum process were selected (Kelley and Meldgaard 2005). Research published by Barnardo's, the Refugee Council and Asylum Support highlighted that, as a result, after one year of the programme, one family has left, three families have signed up for voluntary return and another 12 have taken steps to obtain travel documents, while at least 32 families have gone underground (Refugee Council 2006). Those research findings have reinforced the overall impression amongst the opponents that the policy is particularly ineffective (Refugee Council 2006). The Immigration, Asylum and Nationality Act 2006 provides the possibility for the Government to repeal section 9.

The Government has also increasingly resorted to the detention of children and families for purposes of immigration control. However, in contrast to section 9, the decision has not been put to a vote in Parliament, despite repeated attempts by MPs and Peers to discuss the question and to submit amendments against the detention of children or in favour of legal safeguards and needs assessments of children (SC Deb (B) 27/01/2006; Hansard HC Deb 24/01/2006; Hansard HC Deb 14/03/2006). In 1998, the Government stated that families should be detained 'as close to removal as possible so as to ensure that families are not normally detained for more than a few days' (Home Office 1998: para. 12.5). In doing so, it was clearly making the difference between families with children and single asylum-seekers for whom the number of places in detention centres had been increased. However, in 2002, the Home Office White Paper indicated the Government's intention to detain families 'for longer periods than immediately prior to removal' (Home Office 2002: para. 4.77) and in the same circumstances as for single asylum-seekers, i.e. when identity needs to be established, when people are unlikely to comply with conditions of temporary admission or release, to effect removal and in the case of fast track procedures (Burnham 2006). According to Crawley and Lester's findings, this decision has led to around 2,000 asylum-seeking children being deprived of liberty for purposes of immigration controls in 2004 (2005). This new situation and its impacts have been the objects of study and concern of many voluntary organisations. The concerns expressed by the Chief Inspectors of Prisons, the Commissioners for Children, the UN Committee for the Rights of the Child and the European Commissioner for Human Rights have considerably increased the public and media attention on the issue.

The Government's actions on asylum-seeking families have, however, not been solely oriented towards restrictions. Indeed, one month before the Asylum and Immigration Act 2004 was introduced in Parliament, the Government decided to set up a one-off exercise granting indefinite leave to remain (ILR) to asylum-seeking families with children who have been in the UK for three or more years (Refugee Council 2004). To be eligible, asylum-seeking parents had to have applied for asylum before 2nd October 2000, still not have been issued with a decision and have a dependent who was a minor between October 2000 and October 2003 (IND 2003). This 'Family Indefinite Leave to Remain Amnesty' or Concession (IND 2003) has enabled 20,170 families so far to have their asylum cases cleared without

further consideration of their claim (Home Office 2006). The rationale behind the family amnesty was highly pragmatic. The then Home Secretary David Blunkett stated:

> Granting this group indefinite leave to remain and enabling them to work [was] the most cost-effective way of dealing with the situation and [would] save taxpayers' money on support and legal aid (*Society Guardian* 24 October 2003).

However, in this exercise, the eligibility does not depend on the adult, but entirely on the child who has to be a minor, as well as 'financially and emotionally dependant on the main applicant' (IND 2003). Blunkett justified this distinction between families and single asylum-seekers by saying that 'it would be wrong to uproot these children from the community' (Children's Legal Centre 2006).

Nancy Kelley, Head of UK and International Policy at the Refugee Council, interviewed on 2 May 2006, considers this approach highly pragmatic, since, she argues, it would be hard for the state to remove families settled into a community for more than three years. In comparison, section 9 targets families on the basis of the relatively short length of their stay. Interviewed on 2 May 2006, Neil Gerrard, Chair of the All Party Parliamentary Group on Refugees, explained that single asylum-seekers were complaining about the absence of amnesty for single adults having been living in the country for years. In this policy case, be it for financial or child-sensitive reasons, the child has come to play a key role in the family getting ILR. The family amnesty acknowledges a certain inclination for the state to recognise specific asylum and settlement rights solely related to children and families, despite increasingly restrictive measures.

In this section, I have considered the highly particular policy framework designed for accompanied asylum-seeking children in the UK. Within the overall child policy framework, informed by the CRC, the Children Acts and *Every Child Matters*, asylum-seeking children occupy an 'outsider place' politically justified by the need to maintain firm immigration controls. Within the asylum policy framework, the former distinction between single asylum-seekers and families with regard to welfare restrictions, detention and increased removals has tended to blur to the disadvantage of families. However, the family amnesty, introduced along with section 9, has acknowledged the inclination of the Government still to recognise the special case of a limited number of families with children. These tensions and ambiguities in policy-making do not allow for a simple account of how the constructions of the child and the asylum-seeker interact. Thus there is a need to proceed to a discourse analysis to better comprehend the exact way these constructions impact upon policy-making.

3. DEBATES AROUND ASYLUM-SEEKING CHILDREN AND FAMILIES: THE CASES OF SECTION 9 AND DETENTION

In recent years, as analysed in Sections 1 and 2, issues relating to asylum-seekers and children have been particular objects of study and political action. These matters have however not remained the focus of academics and policy-makers alone. Indeed, actors from civil society have increasingly sought to enter the debates. The case of asylum-seeking children is especially interesting since this issue has the potential to mobilise people concerned with either asylum or children. This section first examines the mobilisation of various actors, especially civil-society organisations, and their advocacy aims and tools. It then moves on to the analysis of two intense debates that have taken place in the last three years: over section 9 and the detention of asylum-seeking children. This will help to explicate

the arguments and the implications of these arguments for the design of the wider asylum system.

The mobilisation of non-state actors in the debates

In view of the Government's tendency both to exclude asylum-seeking children from its child-centred policy and to increasingly restrict asylum policy on asylum-seeking children and families, the main UK-based refugee and children's organisations, as well as smaller organisations, decided, in 1998, to set up the Refugee Children's Consortium (RCC) (Kelley and Meldgaard 2005).[8] The British Red Cross, UNICEF UK and UNHCR have observer status (Children's Society 2003). The RCC has been lobbying the Government and MPs, urging the UK to respect the rights and needs of refugee children in accordance with domestic, regional and international legislation (The Children's Society 2003). The RCC has been especially defending the principle that the best interests of the child should be the primary consideration in all actions undertaken by the UK Government (Nandy, interview, 9 May 2006).

As explained by Nancy Kelley, the idea behind the setting up of the RCC was that, in a hostile policy climate, 'speaking with one voice would increase the likelihood of being able to advocate successfully for asylum-seeking children and families'. It was thought that building bridges between refugee and children's advocacy would increase the chances of the asylum-seeking children's cause being heard:

> If Barnardo's and the NSPCC say, 'don't be nasty to refugee children'; the thing people hear is children. And if the Refugee Council says, 'don't be nasty to refugee children', the thing people hear is refugee (Kelley, interview, 2 May 2006).

As such, the RCC would allow the children's organisations to 'give cover for the refugee agencies' (Kelley, interview, 2 May 2006), tending to be marginalised in the UK (Kaye 1992). The mainstream children's organisations, on the contrary, have been 'massive service providers […] very much integrated into the social fabric and the system of donation' (Kelley, interview, 2 May 2006). Hence children's organisations have continuously chaired the RCC since 1998. Thanks to this involvement it has become highly valued by parliamentarians with longstanding connections to children's organisations, who are more likely to read briefings from the consortium than from any individual refugee organisation (Nandy, interview, 9 May 2006).

In past years, the RCC has been particularly active in campaigning on two issues regarding accompanied asylum-seeking children, section 9 of the 2004 Asylum and Immigration (Treatment of Claimants, etc.) Act and the increasing resort to detention for families with children. It often lobbies as a consortium, but single organisations can launch campaigns individually or jointly on issues affecting their mandate. Save the Children, for example, published a report called *No Place for a Child* on the detention of asylum-seeking children in families and its negative impacts on them. Given the Government's lack of action after the release of the report, Save the Children, the Refugee Council and Bail for

[8] 23 organisations are members of the RCC, including the main children's organisations (Barnardo's, NSPCC, NCH, The Children's Society, Save The Children UK) and the main refugee and migrant organisations (Refugee Council, Medical Foundation for the Care of Victims of Torture, Immigration Law Practitioners' Association) (Kelley and Meldgaard 2005). It was joined by the British Association of Social Workers (BASW) in 2004.

Immigration Detainees (BID) decided to launch a joint campaign, named after the report, to call for an end to the detention of asylum-seeking children (Moger, interview, 9 May 2006).

Criticism of state policy has not been limited to exchanges between the RCC and the state. Recent measures, especially section 9, have also attracted large-scale media attention, leading some policy-makers to talk about the 'hysteria of the newspapers' (Harris in SC Deb (B) 15/01/2004 c191). It has also called for the intervention of international, European and national human-rights bodies, high-ranking civil servants (Chief Inspector for Prisons, Children's Commissioners, Directors of Social Services), social workers, as well as politicians from the three main parties. This mobilisation in favour of respecting children's rights has strengthened the RCC's potential for influence and lobbying.

In the view of the public, asylum-seeking children occupy an intermediary position between the vulnerable child in need of protection and the criminalised asylum-seeker 'with two houses and a Mercedes' (Kelley, interview, 2 May 2006). This has strong implications for advocacy. On the one side, Nancy Kelley, from the Refugee Council, and Neil Gerrard MP, Chair of the All Party Parliamentary Group on Refugees, acknowledge the relative ease of defending the cause of asylum-seeking children as compared to adults. Gerrard explains that MPs in the House of Commons tend to be 'more interested in what is happening to children than what is happening to a single asylum-seeking man' (interview, 2 May 2006). However, it does not mean that asylum-seeking children's needs are equally considered as the needs of other children in distress. According to Lisa Nandy, it is highly difficult to get people to see asylum-seeking children as children and not according to stereotypes, as it is in the case of children in trouble with the law (interview, 9 May 2006). The RCC therefore calls for people to consider 'refugee children as children first and foremost' (Kelley, interview, 2 May 2006; Nandy, interview, 9 May 2006). Asked about their understanding of what it is to be a 'child first and foremost', the interviewees highlighted the 'particular vulnerability of children' (Nandy, interview, 9 May 2006) and their need for protection (Moger, interview, 9 May 2006). The interviewees from children's organisations explain that getting sympathy from their usual supporters is much harder when campaigning for asylum-seeking children's rights as compared to victims of natural disasters or children living in poverty (Moger, interview, 9 May 2006). Indeed, many people consider that 'they can just go home' (Kelley, interview, 2 May 2006). As stated by Kate Moger, Save the Children was conscious that in launching *No Place for a Child*, it might lose some donors, i.e. 'the *Daily Mail* readers', because of the orientation of the campaign (interview, 9 May 2006). Therefore, advocacy within the RCC may be damaging for children's agencies in terms of support. This clearly does not apply for refugee organisations for whom, as discussed before, it is a 'huge asset' (Kelley, interview, 2 May 2006).

In this context, children's and refugee organisations give particular caution to the language they use. They all make sure to present asylum-seeking children as 'children first and foremost' in communications. The Children's Society has decided that, whenever policy advisers speak about asylum-seeking children, they will refer to 'young people', or when necessary to qualify them, as 'young refugees' rather than 'young asylum-seekers' (Nandy, interview, 9 May 2006). It is the choice made by Kelley and Meldgaard in their report on section 9, where 'the term refugee children is used to denote children in asylum-seeking families' (2005: 9). All are conscious of the strength of the construction of the criminal asylum-seeker among the public: 'you would think twice before you talk about crime and young asylum-seekers within the same sentence' (Nandy, interview, 9 May 2006). They thus try to counter the negative association by referring as much as possible to their status as

children, especially on issues like detention. As explained by Kate Moger, the organisations involved in the campaign decided, after longstanding discussions, 'to go with *No Place for a Child* partly because it linked to the research, but also because [they] thought that it was kind of emotive' (interview, 9 May 2006). The idea to include the term 'asylum' in the title was disapproved by the media team due its negative connotation (Moger, interview, 9 May 2006).

Other actors also recognise the powerful political implications of language in debates around asylum. Government representatives have argued in favour of using a temperate language that 'accurately describes the situation' (Burnham in Hansard, HC Deb 24/01/2006 c407WH). During a debate over the detention of asylum-seeking children, the former Minister of State for Immigration, Beverley Hughes, criticised an MP for her 'erroneous, inaccurate and damaging use of language' when describing an immigration removal centre as a prison (Hughes in SC Deb (B), 27/01/2004 c409). There is a clear fight over the use of language and constructions when it comes to issues relating to asylum-seeking children. This has been greatly highlighted in debates over section 9 and detention.

The cases of Section 9 and detention

Analysis of debates around Section 9 and the detention of children identifies three main lines of argument. The first of these, raised by all parties, relates to the child and her need for protection, disconnected from the wider asylum context. The second, articulated by the state and its supporters, refers to the criminal intent of asylum-seeking parents and the subsequent necessity to balance the best interests of the child within increased immigration controls. Finally, asylum advocates argue in favour of recognising the vulnerability and the need for protection of all asylum-seekers, justifying a new asylum system based on the 'best interests of the child' principle.

Asylum-seeking children as vulnerable and in need of protection: the consensus

The first argument relates solely to the situation of children as children, almost entirely disconnected from their status as asylum-seekers. This debate tackles issues relating to children's rights, to their need for protection and the obligations of the two key actors, the family and the state, in relation to the child's well-being. The following analysis shows that the state also enters this argument and sticks to the image of the welfare state willing to protect children.

In the debates around section 9 and detention no one seemed to diverge from the main construction of the child as innocent. The plan prepared by the Home Office to deter families by withdrawing financial support and threatening them with taking children into care was widely criticised for wrongly punishing the children (Denham in Hansard, HC Deb 17/12/2003; BBCnews 2004). Similar concerns were raised in relation to detention, considered by opponents as inherently wrong since children 'ha[ve] not committed any offence' (Gerrard in SC Deb (B) 27/01/2004 c408). Parliamentarians expressed strong concerns over punitive measures that strongly impact on innocent children in no way responsible for the situation they are in (Ewing in SC Deb (B) 27/01/2004). As stated by David Blunkett and Beverley Hughes, respectively former Home Secretary and former Minister for Immigration, the Government is aware of the fact that 'children are not responsible for their parents' decisions' (Hansard, HC Deb 17/12/2003 c1598) and that detention is even more serious when the child is not himself the subject of concern (SC Deb (B) 27/01/2004). The argument they develop, however, emphasises the culpability of parents as balancing the innocence of children, as will be studied later.

Closely related to the innocence of children is their profound vulnerability. Opponents of section 9 and the detention of children point to the fact that, as well as being innocent, asylum-seeking children are the 'most vulnerable people on earth' (Tonge in Hansard, HC Deb 17/12/2003 c1665). As such, as argued by Cohen, they are the ones 'needing the most support and protection' (Hansard, HC Deb 04/01/2006 c403WH).

While there seems to be a wide consensus on the need for protection of children, the different parties disagree on which environment will allow them to be best protected. With section 9 opponents argue that children have a fundamental right to be cared for in the family. In the case of detention, they call for the child's right not to be deprived of her liberty. In both cases they heavily refer to national and international legislation protecting children's rights. Hence, the British Association of Social Workers, among others, claims:

> Section 9 directly goes against the UK childcare legislation, which has constantly aimed to uphold the fundamental right of all children to live with and be cared for by their parents (BASW quoted by Refugee Council 2006: 6).

In the case of detention, it is strongly argued that 'detention facilities will never be the best environment for children and that no one would want to see children in detention facilities' (Gerrard in SC Deb (B) 27/01/2004 c406). The exclusion from mainstream education as a consequence of detention is also a matter of concern for opponents (Lord Avebury in Hansard, HL Deb 27/04/2004 c706; Ewing in SC Deb (B) 27/01/2004 c409).

That the state may deliberately take the decision to uproot these children from a safe and loving environment – the family, the school – has been considerably criticised as being at odds with the state's legal responsibility to protect children and as completely undermining the principles underlying *Every Child Matters*. The numerous references to ECM during the debates acknowledge the strong impact that this new child policy framework has had on British society. Recent measures on asylum made the opponents question the Government's apparent commitment to children: 'it would appear from the [2004] Bill's provision, [section 9], that every child matters except for the children of asylum-seekers' (Tonge, Hansard, HC Deb 17/12/2003 c1664). The simultaneous implementation of ECM and section 9 was therefore considered by many actors as highly ironical and taken as evidence of the Government's inconsistency regarding children. Indeed, these measures, it is argued, do not protect children in any way.

The Government is, on the contrary, seen as deliberately 'put[ting] children at risk' (Corbyn, Hansard, HC Deb 17/12/2003 c1662) and increasing their suffering, while it should aim to alleviate it. Opponents largely refer to the fact that the situation families are in, because of section 9 and detention, is to a large extent created by the state. Resorting to research based evidence, Save the Children's report *No Place for a Child* investigates the detrimental effects of detention on accompanied children. It highlights the large and long-term impacts on the mental health of children (depression, changes in behaviour, confusion), as well as on their physical health (refusal to eat, sleeplessness, persistent coughs) and education level (Crawley and Lester 2005). Similarly, the reports *The End of the Road* and *Inhumane and Ineffective: Section 9 in Practice* have aimed to show the situation in which children, families and social workers are put as a result of section 9 (Kelley and Meldgaard 2005; Refugee Council 2006). In both cases they label the state the guilty party in creating this situation. Similar concerns have been widely echoed by the Association of Directors of Social Services (ADSS) and the British Association of Social Workers (BASW). There has been a clear disconnection

between the Government and its employees, the social workers, who strongly oppose their potential role as 'bad social workers breaking up families' (Kelley, interview, 2 May 2006). As articulated by Dawson, section 9 would alienate the entire social work profession and put social workers in an iniquitous position (Hansard, HC Deb, 01/03/2004). For a liberal democracy to put children at risk is seen as inherently against the values of modern British society (Baster 2002) and belonging to an earlier century (ADSS 2003). This idea of the moral decline of the Government has been widely expressed by various actors, referring to the inhumanity at the extreme of section 9 (Refugee Council 2006) driven by 'cruel' principles (Buchan quoted by Musiyiwa 2005) that no 'caring', no 'civilised' society should be entitled to use (Kelley and Meldgaard 2005). Hence, the common stance among opponents is that the Government is not fulfilling its primary obligation of caring for all children, and is thus undermining fundamental values of British society.

The Government does not try to dismiss these criticisms by referring to the CRC reservation or the exclusion of the Immigration Service from the Children Act. Instead it emphasises its true commitment to all children, stating that its 'concerns, care and compassion extend to those children who are going through the processes of asylum and immigration' (Bassam of Brighton in Hansard, HC Deb 18/05/ 2004 c745).

Hence, it equally articulates its concerns over those children being put at risk. Section 9 embodies the state's positioning. This measure was based on the Government's assumption that parents would decide to go back to their country of origin if threatened with destitution and potential separation from their children. Having this specific conception of parental responsibility, Beverley Hughes repeatedly argued that section 9 was not intended to take children into care (SC Deb (B) 15/01/2004 c154). Indeed the last steps of section 9 should never need to be implemented since families should have decided to leave beforehand. Civil-society organisations and parliamantarians warned that families, as a result of section 9, might go underground to avoid return to the country they have fled from. Asked by the Home Affairs Select Committee (HASC) to react to this possibility, Hughes, on behalf of the Government, gave an argument around parental irresponsibility that has been maintained throughout the debates. The potential decision of failed asylum-seeking parents not to leave the country 'even at the risk of destitution for themselves and their children' would be 'irresponsible behaviour on the side of the parents' (Hughes in HASC 2003: Ev 45). Any repercussions of section 9 felt by children would be a direct consequence of parents ignoring their parental obligations to the detriment of their own children (Hughes in SC Deb (B) 15/01/2004). Blunkett, justifying the need for the state's intervention, repeatedly explained that 'in a civilised society, it is [the state's] job to protect children and not to give way to, second-guess or replace parents' responsibility for the care of their children' (Hansard, HC Deb 17/12/2003 c1598). The Government won the support of a number of parliamentarians, similarly objecting to the 'tendency to blame the Government for decisions taken by parents' (Turner in SC Deb (B) 15/01/2004 c199). This argument was strengthened by suggesting a potential moral difference between 'normal' parents and asylum-seeking parents, implicitly depicted as more likely 'to prefer to abandon their children than any other parent' (Hughes in HASC 2003: Ev 44). The argument put forward by opponents of section 9 of 'loving families' being torn apart as a result of the provision (Kelley and Meldgaard 2005: 4) is being countered by the perceptions of parents not caring for their children and putting them at risk.

In showing that parents are putting children at risk and that the state intervenes to protect them, the Government suggests that it truly takes the best interests of the child into consideration in all actions undertaken as required by international and national legislation. It

argues that any deterrent policy for asylum-seeking families is in the best interests of the child, since 'it does not think that continuing to support a family in a country in which it has no long-term future is in a child's best interests' (Hughes in JCHR 2004a: 40). As such, the Government deliberately justifies its policy by reference to the principle of the child's best interests, despite the CRC reservation. It is especially keen to argue this way since the child's welfare is an important matter of concern for the opponents of both section 9 and the detention of asylum-seeking children. To the argument that it is not in the child's interests to stay in a country where she has no future, opponents argue that a best interests assessment in the spirit of the CRC cannot be based on a general statement, and instead is child, context and time specific (Kelley, interview, 2 May 2006; Gerrard, interview, 2 May 2006; Nandy, interview, 9 May 2006).

Conversely, the state dismisses the absolute opposition of the RCC and some parliamentarians to the detention of asylum-seeking children. Referring to the need to attend to the child and context specificity of the best interests principle, the state argues that there may be circumstances in which detention is in the best interests of the child because the alternative would be 'separation at a time when the parent needs to get to know their child' (Hughes in SC Deb (B) 27/01/2004 c416).

The best interests of the asylum-seeking child appear to be a leading consideration for all parties. However, the constant reference to the child's best interests rather acknowledges the inherent weakness of this broad principle, confirming the concerns expressed during the drafting process of the CRC. Indeed, as discussed in Section 2, one is faced with a highly subjective interpretation of the best interests of the child, left to the judgement of the persons applying the principle (Detrick 1999). All the interviewees recognise the wide room for interpretation, as expressed by Lisa Nandy, Chair of the RCC: 'You can use the argument of the best interests of the child to mean whatever you want it to mean' (interview, 9 May 2006). Nancy Kelley goes further. She refers to the deliberate tendency on the part of the state to corrupt a legal term that, she argues, is well-understood in child-care practice and explicitly defined in the 1989 Children Act and in court decisions (interview, 2 May 2006):

> I think what is quite worrying about that is that you're seeing a corruption of terminology, so you do actually have this kind of odd discussion with the Home Office, where I will say 'blah blah blah best interests' and they'll go 'blah blah blah best interests' (Kelley, interview, 2 May 2006).

Representatives of the Government respond to the opponents' concerns over the best interests of the child by similar considerations over the child's best interests, but with opposite implications, acknowledging the extent to which the different parties are talking past each other.

Finally, both sides emphasise the great potential for 'instrumentalisation' of asylum-seeking children due to their assumed vulnerability. They tend, however, to differ on who is using children and for what purposes. In relation to section 9, the fact that the state may use children as 'pawns', 'tools' or 'weapons' to coerce families into co-operating with return was heavily criticised by the RCC and parliamentarians (Howard in Hansard, HC Deb, 26/11/2003 c18; Caton in Hansard, HC Deb, 20/12/2005 c1748; Turner in Hansard, HC Deb 17/12/2003 c1656). This has been depicted as taking advantage of the vulnerability of children for policy purposes. Referring to Zelizer (1985), one may argue that the state developed section 9 with the awareness of the 'emotionally priceless value' of the child in parents' hearts. As a response, the Government is willing to show that parents, supported by children's advocates, are the ones using their children as weapons 'to secure the acquiescence of [the] immigration

policy' (Turner in Hansard, HC Deb 17/12/2003 c1656). The state seems to fear that families might deliberately use their children, being aware of the central place children play in modern societies and the safeguards that surround them. What appears in both cases is the extent to which children are not considered in their own right, but rather as passive objects dependent on adults' actions and decisions. Indeed opponents and proponents do not consider children as empowered agents within the process despite the rhetoric around children's empowerment and participation used in other contexts.

In both debates around section 9 and detention, all parties base their argument on the innocence and the profound vulnerability of these children and the role that the state and parents need to play to protect them. They, however, interpret differently the role each actor should play in response. The analysis has shown that the state considerably sticks to the child-centred position and presents itself as wanting the best for children. The Government avoids presenting asylum-seeking children as undeserving asylum-seekers or as a threat to society and does not refer at any time to either the CRC reservation or the exclusion of the Immigration Service from the Children Act 2004. As far as asylum-seeking children are concerned, the state adopts exactly the same line of argumentation as its opponents: the innocence and vulnerability of children, the state's obligation to protect children and to act in their best interests.

Asylum-seeking parents as a risk: the state's argument

What the state does, however, is to put the burden on the asylum-seeking parents, the designated guilty parties who are construed as agents. While the RCC focuses on asylum-seeking children as children, one can argue that, for the Government, the key issue is the status of parents as asylum-seekers first and foremost. This shift from the children's innocence to the adults' criminal intent allows the state to justify a system for asylum-seeking families based on standards applying to single asylum-seekers.

Section 9 and detention are two different examples of the way the Government successfully manages to maintain support for its asylum policy, despite strong criticisms of the impact it has on children. As far as Section 9 is concerned, the Government presents it as a straightforward deterrent policy under the model of previous asylum policies for single adults.[9] This type of policy is directly informed by the general construction of the asylum-seeker as an abuser of the system 'at taxpayers' expense' (Hughes in SC Deb (B) 15/01/2004 c178):

> The Government believes that allowing families to receive support indefinitely when their asylum claim has been rejected acts as an incentive to frustrate the removal process and therefore the asylum system (Hughes in JCHR 2004a: 38).

In that case, failed asylum-seeking parents are not considered any differently than single asylum-seekers.

The arguments presented by the state to justify detention focus on the potential 'risks presented in immigration terms by the parents' (Hughes in SC Deb (B) 27/01/2004 c412), who 'can give rise to the same immigration and asylum concerns as single adults' (Hansard, HL Deb, 18/10/2004 c745).

[9] It should however be noted that asylum policies based on exclusion from the welfare system have proven to be rather ineffective (see Bloch and Schuster 2003)

The state, both in debates around section 9 and detention, has gone to great lengths to demonstrate the criminal nature of asylum-seeking parents, portrayed as 'deliberately destroying their documents, […] failing to comply and avoiding a return home' (Hughes in SC Deb (B) 15/01/2004 c197), 'refusing to cooperate with arrangements to leave the UK' (McNulty 2005) and 'likely to abscond' (Hughes in SC Deb (B) 27/01/2004 c413). Contrary to the representation made by the state of the passive and vulnerable asylum-seeking children, their parents appear as empowered agents deliberately opposing the state. According to the Government, not applying the same standards to this group of failed asylum-seekers because they have children would make a 'mockery of asylum system for families' (Denham in Hansard, HC Deb 17/12/2003 c1633).

The former Minister for Immigration, Beverley Hughes, repeatedly pointed to the necessity for the 'fair [asylum] system to treat all applicants in the same way' (Hughes in SC Deb (B) 15/01/2004 c198), without questioning the current policies in the first place. The Government considers that claims for asylum are being 'fully and fairly considered' (Hughes in Home Affairs Committee 2003: Ev 44) and that 'it is safe for [failed asylum-seekers] to return to their country of origin' (McNulty 2005), so that neither children nor parents will be put at risk. The strong dichotomy created by the Government between criminal migrants and the fair asylum system has apparently convinced some opponents of the necessity to apply the standards designed for single asylum-seekers to families.

In this system, the best interests of the child, rather than coming before any action undertaken by the state, have to be adjusted within the context of strong immigration controls as argued by Baroness Scotland of Asthal, representative of the Home Office:

> We must not only have the interests of the child in mind, but also take proper account of the balance that has to be struck between the need to maintain effective immigration control and the need to remove those families who have no lawful basis to stay here (Hansard, HL 27/04/2004 c713).

Once the Immigration Service has taken control of 'dangerous' parents, this 'child-sensitive administration', it is argued, will make sure that the needs of children are met (Bassam of Brighton in Hansard, HL Deb 18/05/2004 c745) in detention facilities designed for families and children:

> The accommodation is based on family rooms which ensure that family members are not separated and, so far as is practicable within the constraints of detention, are able to maintain family life (Brewer in Cole 2003: Appendix II: 57).

Furthermore, children in detention, it is explained, have access to games and books, as well as receiving gifts on their birthdays and at Christmas (Bassam of Brighton in Hansard, HL Deb 18/05/2004).

The fact that parents may compromise the best interests of British society at large apparently justifies adapting the best interests of the child to a secured environment.

Extending compassion and support to all asylum-seekers: the asylum advocates' argument

This criminalising approach, said to penalise parents and children, has been widely criticised by human-rights advocates. Central to the way to deal with asylum-seeking parents is the perception of their agency. While deterrence policies are based on the assumption that

asylum-seekers are agents making rational decisions, they are criticised by their opponents as overlooking the degree of desperation and vulnerability of asylum-seeking families. In debates, the Government's position on the irresponsibility of asylum-seeking parents and the threat represented by them has been repeatedly opposed by MPs, following the position of the RCC. Diane Abbott's intervention on section 9 in the House of Commons expresses many MPs' concerns:

> Reasonable people, people in the Minister's position, take reasonable decisions. Desperate people […] take unreasonable and irrational decisions. Tragically, some parents faced with that choice will take the ticket and go home, but many others will find themselves forced underground, or even more vulnerable and marginalised than they were before (Abbott in Hansard, HC Deb 17/12/2003 c1644).

In the same way, the stand taken by Cohen on the detention of families highlights their high degree of vulnerability: 'Those held in detention include some of the most vulnerable people who in most societies, including ours, are identified as needing the most support and protection. I am talking about families with young children' (Hansard, HC Deb, 24/01/2006 c403WH). Hence these speakers require the state to extend its care and compassion to entire families, considered as being as vulnerable as children.

However, there may be a danger in limiting the extension of the 'right to be considered vulnerable' to families with children only. Some opponents of section 9, like Jenny Tonge, have indeed been describing asylum-seeking families as being usually 'the most genuine asylum seekers':

> Who would haul their children halfway across the world to a country where they know few people and do not speak the language, when they have no money and no means of finding work, if they were not in genuine fear of persecution? (Hansard, HC Deb 17/12/2003 c1664).

This is where asylum advocates see the risk of concentrating only on children and families. It is true that the concerns expressed over children's suffering enable MPs and other people to identify better with the affected parents and families and to imagine how they would act in such a situation (Abbott in Hansard, HC Deb 17/12/2003; Tonge ibid.). As stated previously, the RCC is particularly conscious of the strength of referring to children and family. However, member organisations of the RCC do not accept to be drawn into ranking vulnerabilities (Kelley, interview, 2 May 2006). Indeed, they fear that this particular emphasis on children may lead to creating two groups of asylum-seekers entitled to different treatments: on the one side, the children and families surrounded by legal and social safeguards and on the other side, single adults, seen as 'less vulnerable', to whom 'you can do whatever you want' (Kelley, interview, 2 May 2006).

According to asylum advocates it is truly impossible to make the distinction between children's and adults' rights when taking a human rights perspective (Gerrard, interview, 2 May 2006). Even if children have particular vulnerabilities as children, it does not allow the state, they argue, to withdraw any support to adults or to detain them simply because they are adults. This wider orientation is also defended by children's agencies. Lisa Nandy at the Children's Society acknowledges this wider focus on both children and adults:

> There is not only an impact on children, the asylum system has a lot of harmful effects and it's not just on children, it's on adults as well. And that's something we will never seek to distract from when we talk about children (interview, 9 May 2006).

As such, the argument in favour of a humane treatment of children and families is to be extended to the entire category of asylum-seekers, who, in the eyes of asylum advocates, are as disempowered and in need of support as children.

In opposing the orientation of overall British asylum policy, advocates do not only argue from a human rights perspective. They also aim to raise questions around its effectiveness. This practical questioning is more likely to take place with policies impacting on children. Indeed, as a response to the deep concerns expressed about section 9 the state has been obliged to monitor the implementation of this measure closely, opting for a pilot programme in three regions, followed by an evaluation of its effectiveness. When withdrawing support for single failed asylum-seekers, the Government did not act with such care since the opposition was not as massive. As such, if evaluation of section 9 proves that withdrawing support from families does not work, asylum advocates will be in a position to question with greater force the effectiveness of welfare restrictions on all asylum seekers:

> If we can get section 9 repealed, or if the Government agreed to roll it back, then it is an implicit acknowledgement that a removal of support doesn't work, so we can start working on section 4[10] and adults at the end of the process. (Kelley, interview, 2 May 2006).

In the same way, inspections of immigration removal centres by the Chief Inspector of Prisons (HMIP 2005) or the Children's Commissioners (2005) raised concerns relating to the well-being of children that directly question the Government's policy and its assumptions regarding the families' risk of absconding if not detained. Asylum advocates hope to be able to use the flaws raised in relation to policies targeting children to challenge general assumptions relating to the behaviour and intentions of asylum-seekers. This practice-oriented argumentation might be more likely to resonate with policy-makers than a human-rights argumentation. In practical terms, criticising the effectiveness of policies affecting children represents 'the comparatively easy route to general principles that can then be applied to other groups' (Kelley, interview, 2 May 2006). This, once again, demonstrates the instrumental value of focusing on children.

Overall, asylum advocates strongly oppose a system that discriminates between children and adults. However, they also categorically reject the state's determination to apply to all, the widely criticised standards designed for criminalised single adults. On the contrary, they argue in favour of an overall asylum system modelled on the highest standards applied to children, in which their best interests are taken as a primary consideration. As such, the objectives of the RCC and other asylum advocates involved in the debates are not only to repeal section 9 or to stop the detention of asylum-seeking children, but more generally for the state 'to review its asylum policy as a whole, specifically considering the extent to which it is compatible with existing child welfare and human-rights legislation including the UNCRC' (Kelley quoted by Musiyiwa 2005). Considering the best interests of the child in the centre of the asylum system would imply an individualised, time and context specific approach to each case, taking into consideration each person's country of origin and their material, physical and psychological condition. Asylum advocates push for the state not to base its asylum policy on assumptions, such as the deterrent effect of detention and welfare

[10] Under section 3 of the 2002 Act, unsuccessful asylum applicants are not entitled to NASS support. However, they can apply for support under section 4 of the Immigration and Asylum Act 1999. This 'hard case' support may be provided to a destitute person who is taking all reasonable steps to leave the UK, possibly including 'complying with an attempt to obtain a travel document to facilitate return'. Support is denied if applicants are deemed not to have complied in this manner (Refugee Council 2005).

restrictions or the country of origin's overall degree of safety. They argue in favour of an evidence-based approach that keeps alternatives open: acceptance of the claim, temporary protection or voluntary return in safe condition after a fair process. This, they argue, would be best achieved with a caseworker approach, implying a one-to-one relationship between the asylum-seeker and her caseworker (Nandy, interview, 9 May 2006; Kelley, interview, 2 May 2006; Moger, interview, 9 May 2006). This approach would allow the asylum-seeker to be supported and aware of her situation from the beginning to the end of the process. According to asylum advocates the system of 'incentivised compliance' (Crawley and Lester 2005), as implemented in the US, Sweden and Australia, would create a climate of mutual trust and understanding favourable to voluntary return. As such, the alternative offered by the RCC is going far beyond the well-being of children alone, aiming to ensure the fair processing of asylum-seekers' claims with the best interests standard underlying the overall decision-making process. All the interviewees have mentioned the caseworker approach of the New Asylum Model (NAM) entailed in the Immigration, Asylum and Nationality Act 2006 as a positive evolution in this sense. However, they strongly criticise the 'segmentation' on which NAM relies: The caseworker allocates each case to one of nine pre-determined segments, depending on the characteristics of the asylum claim, which will determine the processing and support pathway of each individual case. It is once again, they argue, based on initial unverified assumptions prejudging the outcome of the asylum process (Refugee Council 2006).

CONCLUSION

The overall objective of the thesis was to comprehend the nature and implications of the relationship between childhood and asylum in the UK. It aimed to examine how the prevalent constructions of childhood and the asylum-seeker interact in the policy-making process and political debates on accompanied asylum-seeking children.

The theoretical analysis highlighted the extent to which the asylum-seeking child has the potential to be constructed according to the conception one favours. The prevalent perception of the innocent and vulnerable child in need of protection faces the construction of the undeserving asylum-seeker, the deviant flip side of the 'genuine' refugee. As such, the relationship between childhood and asylum proves highly challenging on a theoretical level, given the mutual exclusiveness of the two prevalent constructions.

The particular policy framework designed for asylum-seeking children in the UK acknowledges the inherent contradiction this group embodies. Being under 18, they are entitled to benefit from the UK's political commitment to children as expressed in international and national legislation. However, the Government seems to consider asylum-seeking children to be a challenge to its child-centred policy, as acknowledged by the wide-ranging CRC reservation and the exclusion of the Immigration Service from the Children Act 2004. These exclusions have opened the door to the extension of the UK's preventative and deterrent asylum policy to children and families, based on welfare restrictions and the increased resort to detention. However, the family concession suggests a certain inclination of the state to base its policy on child-sensitive considerations or, at least, to seek to gain legitimacy. The specific policy framework designed for asylum-seeking children acknowledges the state's fear of the relationship between childhood and asylum, and how it may either bind it against its will on asylum or damage its reputation regarding children.

All the actors involved in the policy-making process on asylum have been – consciously or unconsciously – faced with the social constructions they are willing and able to defend and the wider implications these may have. Analysis of the discourse has highlighted an apparent consensus between all parties around the vulnerability and need to protect asylum-seeking children from being at risk. This research finding considerably extends the analysis of the policy framework, in which asylum-seeking children are not clearly recognised as vulnerable. However, this consensus on children's needs and entitlements breaks down on the perception of the asylum-seeking parents, their credibility and agency. The construction of criminal asylum-seeking parents justifies the state in adjusting the best interests of the child to being kept within a controlled environment. On the other side, the conceptualisation of the child as innocent and vulnerable is used by asylum advocates to elicit the compassion of children's advocates towards the wider group of asylum-seekers. They propose another approach in which the standards of the best interests of the child – individual, context and time specific – would underlie the entire asylum system.

Overall, despite an apparent consensus on children and what is due to them, discourses on asylum policy for children and families still lack the minimum level of mutual understanding, remaining stuck on the issue of adults' agency. This explains the specific policy framework designed for these children. Using the state's willingness to recognise children's vulnerability and need for protection might, however, prove successful in terms of advocacy. The highly political relationship between childhood and asylum in the UK has a great potential to be practically useful in designing an asylum system based on trust, support and mutual understanding, as is required when dealing with people viewed as vulnerable such as children. The Government's agreement to think about repealing section 9 and to discuss alternatives to detention may be considered as a first step towards the opening of a new dialogue.

This research has highlighted the extent to which the Government and its supporters tend to put the burden of blame on asylum-seeking parents regarding both the rearing of their children and their behaviour during the asylum process. These findings point to the need to investigate the approaches defended by the state, children's and refugee advocates regarding *unaccompanied* asylum-seeking children. Indeed, these children radically question many of the basic assumptions about the young that have been highlighted during the research, such as passivity, lack of maturity and strong dependence on the family (Tolfree 2004; Dennis 2002). One can reasonably wonder how the state deals with the absence of parents on which to put the burden and, hence, whether it considers unaccompanied children as rational agents or as vulnerable beings. The intense debates around age-disputed separated children (considered over 18 by the state but claiming to be minors) are of great interest, acknowledging the considerable importance of conceptual divides, such as the age limit to childhood. Finally, a cross-national comparative study of the political construction of asylum-seeking children and families would be highly relevant given the convergence in different countries towards increasingly restrictive asylum policies. Such a study would be able to examine whether the relationship between childhood and asylum is similarly political in other countries and identify the reasons for similarities and differences. A comparison would in the end contribute to a greater public understanding of the relationship between childhood and asylum and convey useful information for improving both advocacy and policy-making on asylum.

REFERENCES CITED

ADSS (2003) 'Aspects of Queen's Speech "belong to an earlier century"' Press Release, 27 November. http://www.adss.org.uk/pres/2003/queen.shtml (accessed 15 January 2006).

ALDGATE, J. and **STATHAM, J.** (2001) *The Children Act Now: Messages from Research, Studies in Evaluating the Children Act 1989*, London, Stationery Office.

ALL PARTY PARLIAMENTARY GROUP FOR CHILDREN (2002) *Commitment to Children Review of the year to June 2002*, Ilford, Barnardo's.

ALSTON, P. (1994) 'The Best Interests Principle: Towards A Reconciliation of Culture and Human Rights', 1-25 in Philip Alston (ed.), *The Best Interests of the Child: Reconciling Culture and Human Rights*, Oxford: Oxford University Press.

ARCHARD, D. (1993) *Rights and Childhood*, London, Routledge Farmer.

ARIES, P. (1960) *Centuries of Childhood* (original *L'Enfant et la vie familiale sous l'ancien régime*), Suffolk, Richard Clay.

AUDIT COMMISSION (2000) *Another Country: Implementing Dispersal under the Immigration and Asylum Act 1999*, Portsmouth, Holbrooks Printers Ltd.

BAGILHOLE, B. (2003) 'Soft Haven? A Critical Analysis of the Treatment of Asylum Seekers in the UK', Paper delivered at ECPR conference, Marburg, 18-21 September. www.essex.ac.uk/ecpr/events/generalconference/marburg/papers/10/10/Bagilhole.pdf (accessed 25 November 2005).

BASTER, T. (2002) Letter to Tony Blair MP 16 July 2002. Available from: www.asylumrights.net/lettertoblair.pdf (accessed 27 March 2006).

BBC NEWS (2004) 'Peers urged to wreck Asylum Bill', May 18.

BENTLEY, K.A. (2005) 'Can There Be Any Universal Children's Rights?', *International Journal of Human Rights*, **9**(1): 107-123.

BLAKE, N. and **DREW, S.** (2001) *Legal Opinion of Nicholas Blake QC, Matrix Chambers and Sandhya Drew, 'In the Matter of the United Kingdom Reservation to the UN Convention on the Rights of the Child'*. Available from: http://www.segregation.org.uk/legalopinion.pdf (accessed 4 January 2006)

BLOCH, A. and **SCHUSTER, L.** (2002) 'Asylum and Welfare: Contemporary Debates', *Critical Social Policy*, 22(3): 393-414.

BOYDEN, J. (1997) 'Childhood and the Policy-makers: A Comparative Perspective on the Globalisation of Childhood', 190-229 in James, A. and Prout, A. (ed.) *Constructing and Reconstructing Childhood: Contemporary Issues in the Sociological Study of Childhood*, London, Routledge, Falmer Press.

BRANNEN, J. and **O'BRIEN, M.** (eds) (1996) *Families, Research and Polciy*. London, Falmer Press.

BREEN, C. (2002) *The Standards of the Best Interests of the Child – A Western tradition in International and Comparative Law*, The Hague, Kluwer Law International.

BRIGHOUSE, H. (2002) 'What Rights (If Any) Do Children Have?' 31-53 in Archard, D. and MacLeod, C.M. *The Moral and Political Status of Children*, Oxford, Oxford University Press.

BURNHAM, A. (2006) Letter to Alistair Burt MP.

CHILDREN'S COMMISSIONER (2005) *An announced visit to Yarl's Wood Immigration removal centre*. Available from: http://www.ncadc.org.uk/archives/filed%20newszines/newszine66/Yarlwood_children_commissioner.pdf (accessed 22 December 2005).

CHILDREN'S LEGAL CENTRE (2006) 'Unaccompanied Minors: exclusion from the Home Office 'one-off exercise' to allow families who have been in the UK for three years or more to stay. Permission granted to claim Judicial Review', Refugee and Asylum Seeking Children's project.

CHILDREN'S RIGHTS ALLIANCE FOR ENGLAND (2005) 'Memorandum, Written Evidence for the Joint Committee on Human Rights'. Available from: http://www.publications.parliament.uk/pa/jt200405/jtselect/jtrights/99/99we04.htm (created 31 March 2005, accessed 24 March 2006)

CHIMNI, B.S. (1998) 'The Geopolitics of Refugee Studies: A view from the South', *Journal of Refugee Studies*, 11(4): 350-374.

COHEN, S. (2002) *Folk Devils and Moral Panics*, London, Routledge (3rd edn).

COLE, E. (2003) *A Few Families too many: The Detention of Asylum-seeking Families in the UK*, Bail for Immigration Detainees.

CRAWLEY, H. (2006) *Child First, Migrant Second: Ensuring that Every Child Matters*, ILPA Policy Paper.

CRAWLEY, H. and **LESTER, T.** (2005) *No Place for a Child: Children in UK Immigration Detention: Impacts, Alternatives and Safeguards*, London, Save the Children.

CUNNINGHAM, H. (2005) *Children and Childhood in Western Society Since 1500*, London, Pearson Education Ltd, 2nd edition.

DENNIS, J. (2002) *A Case for Change: How Refugee Children in England are Missing Out*, London, The Refugee Council.

DEPARTMENT FOR EDUCATION AND SKILLS (2003) *Every Child Matters* Green Paper, London, Stationary Office.

_____ (2005) *The Children Act 2004*. Available from: http://www.dfes.gov.uk/publications/childrenactreport/ (accessed 15/04/2006).

DEPARTMENT OF HEALTH (1997) *The Children Act 1989: Guidance and Regulations*, Stationary Office. Available from: http://www.lbcma.org.uk/guidelines2.pdf

DETRICK, S. (1999) *A Commentary on the United Nations Convention on the Rights of the Child*, The Hague, Kluwer Law International.

FICKLING, D. (2006) '5% rise in UK Asylum Applications', *The Guardian*, May 23.

FINCH, J. (1984) '"It's Great to have Someone to Talk to": the Ethics and Politics of Interviewing Women', 70-87, in Bell, C. and Roberts, H. (eds), *Social Researching: Politics, Problems, Practice*, London & Boston, Routledge and Kegan Paul.

FINCH, N. (2006) *Legal Opinion 'In the Matter of Section 11 of the Children Act 2004 and in the Matter of Children Subject to Immigration Control'*, London, Garden Court Chambers.

FIONDA, J. (2001) 'Legal Concepts of Childhood: An Introduction', 4-17 in Fionda, J. *The Legal Concepts of Childhood*, Oxford, Hart Publishing.

GERRARD, N. (2006) Interview with Author, May 2006.

GIBNEY, M.J. (2004) *The Ethics and Politics of Asylum*, Cambridge, Cambridge University Press.

HAMMARBERG, T. and **HOLMBERG, B.** (2000) 'Best Interests of the Child: the Principle and the Process' in: Save the Children Sweden, *Children's Rights: Turning Principles into Practice,* Smedjebacken, Fälth and Hässler.

HART, J. (2006) 'Saving Children', *Anthropology Today* 21(6): 3-6.

HENDRICK, C. (1997) *Children, Childhood and English Society 1800-1990*, Cambridge, CUP.

HEYWOOD, C. (2001) *A History of Childhood*, Cambridge, Polity Press Ltd.

HMIP (2005) *Report on an Announced Inspection of Yarl's Wood Immigration Removal Centre (28 February–4 March 2005)*, London, Her Majesty's Inspector of Prisons.

HOME OFFICE (1998) *Fairer, Faster and Firmer: A Modern Approach to Immigration and Asylum*, London, Stationery Office.

_____ (2002) *Secure Borders, Safe Haven*, London, Stationery Office.

_____ (2005) *Controlling Our Borders: Making Migration Work for Britain – Five Year Strategy on Asylum and Immigration*. www.archive2.official-documents.co.uk/document/cm64/6472/6472.pdf (accessed 15 April 2006)

_____ (2006) *Statistics Asylum-seekers, Immigration, Research and Statistics Service 4th Quarter 2005* (October/November/December). http://www.homeoffice.gov.uk/rds/immigration1.html (accessed 23 May 2006)

HOME OFFICE PRESS OFFICE (2005) 'Removal Figures Continue to Rise for Failed Asylum Seekers', 22 November.

HOUGH, J. (1995) 'Why Isn't It The Children Act?' in Dalrymple, J. and Hough, J. (eds) *Having A Voice: An Exploration of Children's Rights and Advocacy*, Birmingham, Venture Press.

HOUSE OF COMMONS (2003) Asylum and Immigration (Treatment of Claimants, etc.) Bill: First Report of Session 2003–04, Home Affairs Select Committee.

_____ Standing Committee B, London, Stationery Office. http://www.publications.parliament.uk/pa/cm200304/cmselect/cmhaff/109/109.pdf (accessed 25 January 2006)

HUGHES, B. (2003) 'Supplementary Memorandum Submitted by Beverley Hughes, Minister of State, to the Home Affairs Committee', Evidence, 44–5 in Home Affairs Select Committee, *Asylum and Immigration (Treatment of Claimants, etc.) Bill, First Report of Session 2003–04*.

_____ (2004) 'Letter from Beverley Hughes MP, Minister of State', in Joint Committee on Human Rights, *Asylum and Immigration (Treatment of Claimants, etc.) Bill Fifth Report of Session 2003-2004*.

IMMIGRATION AND NATIONALITY DIRECTORATE (2003) *One-off exercise to allow families who have been in the UK for three years or more to stay*. Available from: http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/apis/one-off_exercise.html (accessed 01 May 2006).

_____ (2004) *Instructions to Caseworkers: Failed Asylum Seekers – Withdrawal of Support. Paragraph 7A of Schedule 3 of the Nationality, Immigration and Asylum Act 2002 (as*

inserted by section 9 Asylum and Immigration (Treatment of Claimants, Etc.) Act 2004), London, The Home Office.

INTERNATIONAL SAVE THE CHILDREN ALLIANCE (2000) *Children's Rights: Reality or Rhetoric? Convention on the Rights of the Child: the First Ten Years*, London, Impressions.

JAMES, A. and **PROUT, A.** (1997) 'A New Paradigm for the Sociology of Childhood?' 7-33 in James, A. and Prout, A. *Constructing and Reconstructing Childhood: Contemporary Issues in the Sociological Study of Childhood*, London, Routledge.

JENKS, C. (2001) 'Sociological Perspectives and Media Representations of Childhood', 19-43 in Fionda, J. (ed.) *The Legal Concepts of Childhood*, Oxford, Hart Publishing.

JOINT COMMITTEE ON HUMAN RIGHTS (2003) *The UN Convention on the Rights of the Child: Tenth Report of Session 2002-03*, HL Paper 117, London, Stationery Office.

_____ (2004a) *Asylum and Immigration (Treatment of Claimants, etc.) Bill: Fifth Report of Session 2003–04*, HL Paper 35, HC 304. http://www.publications.parliament.uk/pa/jt200304/jtselect/jtrights/35/35.pdf (accessed 29 October 2005)

_____ (2004b) *Children Bill: Nineteenth Report of Session 2003–04*, HL Paper 161, HC 537. http://www.publications.parliament.uk/pa/jt200304/jtselect/ jtrights/161/161.pdf (accessed 13 March 2006)

KAYE, R. (1992) 'British Refugee Policy and 1992: the Breakdown of a Policy Community', *Journal of Refugee Studies*, 5(1): 47-67.

_____ (1998) 'Redefining the Refugee: The UK Media Portrayal of Asylum Seekers', 163-182 in Koser, K. and Lutz, H. (eds) *The New Migration in Europe: Social Constructions and Social Realities*, London, Macmillan.

KELLEY, N. (2006) Interview with Author, May 2006.

KELLEY, N. and **MELDGAARD, L.** (2005) *The End of the Road: The Impact on Families of section 9 of the Asylum and Immigration (Treatment of Claimants) Act 2004*, London, Barnardo's. www.barnardos.org.uk/end_of_the_road_asylum_report.pdf. (accessed 13 February 2006)

LASCH, C. (1977) *Haven in a Heartless World*, New York, Basic Books.

LAYTON-HENRY, Z. (2004) 'Britain: From Immigration Control to Migration Management', 297-333 in Wayne, C., et al. (eds) *Controlling Immigration: A Global Perspective*, second edition, Stanford, Stanford University Press.

LEBLANC, L.J. (1996) 'Reservations to the Convention on the Rights of the Child: A Macroscopic View of State Practice', *The International Journal of Children's Rights* 4: 357-381.

LORD FILKIN (2001) Letter to the Committee from the Parliamentary Under Secretary of State for the Home Office re the Nationality, Immigration and Asylum Bill in Twenty-first Report, Session 2001B02, Scrutiny of Bills: Further Progress Report, HL Paper 159/HC 1141, Ev 2, London, The Stationery Office.

LORD LAMING (2003) *The Victoria Climbié Inquiry*, London, HMSO.

McNULTY, T. (2005) 'Asylum Seeker Eviction', *The Guardian*, August 31.

MOGER, K. (2006) Interview with Author, May 2006

MUSIYIWA, A. (2005) 'Government's Policy leaves Refugee Children destitute' in *Worldpress* November 17. Available from: www.worldpress.org/Europe/2180.cfm (accessed 05 March 2006)

NANDY, L. (2006) Interview with Author, May 2006.

OFSTED (2003) *The Education of Asylum-seeker Pupils*, London, The Stationery Office.

PAGE, B. (2004) 'The Second Death of Liberal England' Presentation held at the Local Government Chronicle Annual Summit, London, 1st September 2004. Available from: http://www.mori.com/pubinfo/bp/the-second-death-of-liberal-england.shtml (created 1 September 2004, accessed 24 November 2005)

PUPAVAC, V. (2002) 'The International Children's Right Regime', 57-75 in Chandler, D. (ed.) *Rethinking Human Rights: Critical Approaches to International Politics*, Basingstoke, Palgrave.

REFUGEE CHILDREN'S CONSORTIUM (2003) 'Response by the Refugee Children's Consortium to the Home Office White Paper "Secure Borders, Safe Haven"'. http://www.asylumsupport.info/whitepaperresponses/refugeechildrensconsortium.pdf. (accessed 30 January 2006)

REFUGEE COUNCIL (2004) *One-off Government Asylum Case Clearing Exercise for Asylum-seeking Families*, London, Refugee Council.

_____ (2005) *Iraq: Return and Section 4 Support*, Briefing, London, Refugee Council.

_____ (2006) *New Asylum Model*, Briefing, London, Refugee Council.

ROUSSEAU, J.J. (1762) *Emile, ou, De l'éducation*, published in 1999 by Flammarion, Paris.

SALES, R. (2002) 'The Deserving and the Undeserving? Refugees, Asylum Seekers and Welfare in Britain', *Critical Social Policy* 22(3): 456-478.

SCHABAS, W. A. (1996) 'Reservations to the Convention on the Rights of the Child', *Human Rights Quarterly* 18: 472-491.

SCHUSTER, L. (2003) 'Asylum Seekers: Sangatte and the Channel Tunnel', *Parliamentary Affairs* 56(3): 506-522.

SCHUSTER, L. and **WELCH, M.** (2005) 'Detention of Asylum Seekers in the UK and US: Deciphering Noisy and Quiet Constructions', *Punishment and Society* 7(4): 397-418.

SHACKNOVE, A.E. (1985) 'Who is a Refugee?' *Ethics* 95(2): 274-284.

SOCIETY GUARDIAN (2003) '15,000 Families Granted Asylum', October 24.

STEPHENS, S. (1995) 'Children and the Politics of Culture in "Late Capitalism"', 3-51 in Stephens, S. *Children and the Politics of Culture*, Princeton, Princeton University Press.

THE CHILDREN'S LEGAL CENTRE (2004) *Information note on s.9 and s.35 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004*, Refugee and Asylum Seeking Children's Project. http://www.childrenslegalcentre.com/shared_asp_files/uploadedfiles/%7BB1D10FFE-9289-43B7-8BDF-6604BA7B356E%7D_s.9%20and%20s.35%20V2.pdf (accessed 04 April 2006).

THE CHILREN'S SOCIETY (2003) *Refugee Children's Consortium*. Available from: http://www.childrenssociety.org.uk/whoareyou/policymaker/SG_Feature/1038636/6/ (last updated 2003, accessed 25 April 2006).

TOLFREE, D. (2004) *Whose Children? Separated Children's Protection and Participation in Emergencies*, Stockholm, Save the Children.

TURTON, D. (2003) 'Conceptualizing Forced Migration', *RSC Working Paper 12*, http://www.rsc.ox.ac.uk.

UN COMMITTEE ON THE RIGHTS OF THE CHILD (1994) *Consideration of reports submitted by states parties under article 44 of the Convention – Concluding observations: Norway*, CRC/C/15/Add.23.

_____ (2002) *Consideration of reports submitted by states parties under article 44 of the Convention – Concluding observations: United Kingdom of Great Britain and Northern Ireland*, CRC/C/15/Add.188.

_____ (1996) *General Guidelines for Periodic Reports*, UN Doc CRC/C/58.

UNHCHR (2006) *Status of Ratifications of the Principal International Human Rights Treaties*. http://www.unhchr.ch/pdf/report.pdf (last accessed 17 April 2006)

UNITED KINGDOM (1989) *Children Act, Chapter 41*, London, HMSO.

_____ (1999) *Immigration and Asylum Act, Chapter 33*, London, HMSO.

_____ (2002) *Nationality, Immigration and Asylum Act, Chapter 41*, London, HMSO.

_____ (2004) *Asylum and Immigration (Treatment of Claimants, etc.) Act, Chapter 19*, London, HMSO.

_____ (2004) *Children Act, Chapter 31*, London, HMSO.

_____ (2006) *Immigration, Asylum and Nationality Act, Chapter 13*, London, HMSO.

UNITED NATIONS (1991) *Convention on the Rights of the Child, Reservations made by the UK*.

VAN BUEREN, G. (1995) *The International Law on the Rights of the Child*, The Hague, Kluwer Law International.

VEERMAN, P. E. (1992) *The Rights of the Child and the Changing Image of Childhood*, Dordrecht/Boston/London, Martinus Nijhoff.

WILLIAMS, J. (2004) 'What Matters is Who Works: Why Every Child Matters to New Labour. Commentary on the DfES Green Paper *Every Child Matters*', *Critical Social Policy* 24(3): 406-427.

ZELIZER, V. (1985) *Pricing the Priceless Child: The Changing Social Value of Children*, New York, Basic Books.

ZETTER, R., GRIFFITHS, D., FERRETTI, S. and **PEARL, M.** (2003) 'An Assessment of the Impact of Asylum Policies in Europe 1990–2000', *Home Office Research Study 259*.

APPENDIX 1: INTERVIEW WITH REFUGEE ORGANISATIONS

The organisation and the interviewee

1. What is your position within the organisation? Why did you decide to work here?
2. To what extent do the activities of your organisation relate to asylum-seeking and refugee children?

Refugee Children's Consortium

3. The Refugee Council, as well as Barnardo's, is a member of the RCC; could you tell me more precisely, if you know, how it was set up and what were the incentives to create this network?
4. The RCC is a very large network involving very different organisations. What are the common values the various organisations involved in the RCC share?
5. The RCC and your organisation argue that refugee children should be considered as children first and foremost. What makes children a specific group? What are for you the most important children's rights and needs?

The State and asylum-seeking children

6. Why, in your opinion, has the state recently increased restrictive measures targeting asylum-seeking children and families?
7. Which provisions targeting children are in your opinion the most disturbing and why?
8. To what extent, in your opinion, is the state justified in setting boundaries to children's rights, for purposes of immigration control?
9. The UK has added a general reservation on immigration and nationality to the 1989 UN Convention on the Rights of the Child. You have since then been campaigning against it. What do you think would be the consequences of the withdrawal of this reservation? How do you think this would affect your advocacy?
10. In the same way, immigration agencies are excluded from the duty to promote and safeguard the well-being of children. Do you think the Government did not include them on purpose? Which repercussions could it have if they were on the list of the agencies having to promote and safeguard the well-being of the child?

Childhood and the best interests of the child

11. The child's welfare or the child's best interests are often referred to in the current debates about asylum policy. What do the 'best interests of the asylum-seeker child' for you consist of?
12. How convincing do you find the state's argumentation around the best interests of the child, adopting what they call 'a long term approach' (the best interests of the child being to leave a country where she has no future)? What is for you the best alternative for the child in the short term? In the long term?
13. The argument of the best interests of the child is brought up by both proponents and opponents of restrictive measures regarding children's rights. Does it make you think about the relativity of this notion?
14. The standard of the best interests of the child is commonly used on the micro level in divorce cases for example. How appropriate do you find it for general campaigns on the macro level?

Immediate and mediate objectives of advocating for asylum seeking children

15. What are your main objectives in advocating for asylum-seeking children?
16. How much do you think about the language and the wording you use to describe asylum policies and their impact on children and families in reports, policy papers, memoranda and speeches on asylum-seeker children?
17. How easy or how hard is it to campaign in favour of asylum-seeker children as compared to campaigning for adult asylum-seekers?
18. I have read many articles reporting positively on campaigns against section 9, detention and deportation of children. How do you explain the difference in tone of media coverage compared to reports on 'bogus asylum-seekers'?

Lobbying the Government and having influence in debates

19. MPs, the Joint Committee on Human Rights, and other policy makers often refer to children's organisations' and churches' opposition to new laws to justify their opposition, not much referring to refugee organisations. To what extent is it an asset for a refugee organisation to be associated with children's organisations?
20. In large coalitions such as the RCC different priorities and methods in lobbying the Government must cause tensions between organisations. Does opposition sometimes occur between children's charities and refugee organisations on the direction to give to some campaigns? If yes, how do you resolve these issues within the RCC?
21. Do you have the impression that it is harder for the state to develop tough asylum policies on children and families? If yes, why?
22. To what extent does campaigning in favour of children have repercussions on the general perception of asylum-seekers?
23. Do you think that public awareness-raising of restrictive measures targeting children and families, such as section 9, detention or deportation, can affect public support and trust in the Government's asylum policy?

Section 9

24. Section 9 of the 2004 Asylum and Immigration (Treatment of Claimants) Bill implies the withdrawal of support to a new category: 'failed asylum-seekers with family'. Politicians and organisations have been pointing at the inhumanity and the disastrous administrative effect of the provision. Do you share this point of view? What is for you the most disturbing?
25. To what extent do you think it's more inhumane to withdraw support to families than to single asylum-seekers?
26. Why do you think the category of failed asylum-seekers with dependent child was not included in the Nationality, Immigration and Asylum Act 2002?
27. The Government has been accused of using children as tool to coerce parents to leave the country. But many argue in return that parents themselves use their children as a tool to remain in the country. Do you have concerns about this potential use of children by their parents?
28. It has been proven that in addition to having attracted particular negative media coverage, section 9 has not been effective. Do you think the Government will not implement section 9 after the end of the pilot scheme? Do you think the state now regrets having introduced this provision?
29. The Government states that they have to find a solution to remove failed asylum-seekers with family with or without section 9. What do you propose? Which alternatives do you defend?