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Victims or Criminals? The Vulnerability of Separated Children in the Context of Migration in the United Kingdom and Italy

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Abstract

Despite the periodic and official commitments of the United Kingdom and Italian governments with regard to separated children's rights and welfare, academics, non-governmental organisations and international organisations have widely emphasised that in both countries the effective protection of children is hindered by harsh immigration laws, policies and practices. In spite of this growing body of literature, policy-makers have paid little attention to questions concerning children and migration, showing a lack of political will to effectively protect their rights and address their vulnerability. This paper focuses on some of the most critical issues that emerge from the literature concerning the situation of separated children in the United Kingdom and Italy, with the aim of highlighting the impact that national laws, policies and practices have on the framing and production of their vulnerability.

*We pity the sufferings of childhood;
we should pity ourselves; our worst sorrows are of our own making.*
Jean-Jacques Rousseau

Introduction

This paper takes into consideration some areas of concern in relation to the migration experiences of separated children and the impact on their vulnerability in two European countries: the United Kingdom and Italy. There are many differences between the two countries, due to their legislative and policy frameworks and their geopolitical location. However, there are also common tendencies, often shared by the majority of European Member States.

The European governments' ambivalent, exclusionary and hostile attitude towards migrant children is broadly recognised in public debate. On the one hand, decision-making politicians state their adherence to the idea that migrant children¹ are first and

foremost *children* and that they are entitled to all child rights as children with citizenship. They further recognise that the ageing European continent will need migration, in particular juvenile migration (O'Connell Davidson and Farrow 2007). On the other hand, when dealing with child rights and vulnerability, governments face the challenge of how to fulfil their international obligations at a time when their overall concerns have shifted towards tougher immigration policies to prevent and restrain 'illegal' immigration (Sigona 2011) as well as harsh cuts to welfare benefits.

Although children have always been part of migration flows (Giovanetti 2009), 'late-modern migratory processes have been characterised by a quantitatively superior and qualitatively different degree of involvement of minors and young adults in independent migration' (Mai 2011: 1239). Notwithstanding this, policy-makers have paid very little attention to the broader understanding of the root causes of child migration, including the children's role within families, their personal aspirations

¹ In this paper the term 'children' is preferred to more extensive definitions such as 'children and youths', 'young people' or 'adolescents' with the intent of focusing on the rights they are entitled to according to the United Nations Convention on the Rights of the Child and to its definition of 'child' meaning 'every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier' (art. 1). By using this definition I do not mean to deny the socially and culturally constructed nature of childhood, nor do I intend to downplay the inherent limitations of such an approach in framing and responding to every child's conception of autonomy, responsibility for survival and protection needs. On the contrary, the assumption of this paper is that

those are important perspectives that both illuminate and help to enhance the respect for and comprehension of children's identity, personal aspirations and experiences, and should form part of every consistent and comprehensive approach aimed at bettering children's rights.

and their active roles in decision making in relation to their mobility (O'Connell Davidson and Farrow 2007; Mai 2011). Furthermore, there has not been a consistent assessment of the positive and negative effects of child migration, or an analysis of the impact that immigration policies and laws of the host country have on the production and framing of separated children's vulnerability (O'Connell Davidson and Farrow 2007; Eneajor 2008). Far from being recognised as agents for social and cultural changes, separated children are reckoned to be naturally dependent and inherently vulnerable (Costella, Furia and Lanti 2010), their specific situation is neglected or rooted in disputable assumptions and their migration is merely perceived as posing a series of 'problems' to be solved. As argued by Nando Sigona:

...like women, minors as a specific social group, by and large, have been off the migration agenda. If migrating as dependants, their experiences of migration have often been assimilated to those of their parents or guardians; if migrating alone, their mobility has been interpreted often as the result of coercion on the child (e.g. human trafficking) or as a menace to the welfare system of the country of destination (e.g. adult migrants claiming to be minors in order to access social benefits) (Sigona 2011: 3).

The lack of a comprehensive and consistent policy approach in dealing with child rights issues associated with migration, is in turn reflected in a failure of attempts to agree on definitions and on the design of strategies which are mainly based on the state's national security and economic interests, cultural values and political objectives (Petti 2004; O'Connell Davidson and Farrow 2007; Sigona 2011).

As highlighted by O'Connell Davidson and Farrow (2007), the complex and diverse child migration phenomenon has in fact been partitioned and managed through mutually exclusive groups or categories: for example, legal vs illegal, forced vs voluntary,

permanent vs temporary, etc.; and by attaching narrow and restrictive labels to migrant children, for example accompanied vs unaccompanied, victims of trafficking, exploitation and smuggling, asylum seekers vs non asylum seekers. As a matter of fact, these categories do not necessarily mirror separated children's migration experiences and protection needs, and at any one time a migrant child may belong to two or more of the categories, or may move between categories (O'Connell Davidson and Farrow 2007; Sigona 2011). With particular reference to children migrating alone, specific attention should be given to the provision and assessment of the requirements an adult must meet to be recognised as having the legal or customary responsibility of a child.

Following the approach proposed by the *Separated Children in Europe Programme* (SCEP), in this paper the term separated children is used to refer to individuals who are 'under 18 years of age, outside their country of origin and separated from both parents, or their previous legal, or customary primary caregiver' (SCEP 2010: 3). This definition suggests that the term 'separated' should be used instead of 'unaccompanied' to highlight the fact that some children may be 'accompanied' when they arrive in Europe, but the accompanying adult(s) may not be their customary and primary caregiver, or be able and suitable to assume responsibility for their care and protection (SCEP 2010). Furthermore, it includes not only asylum-seeking children but also children who may not apply for asylum, such as children who have come from conditions of poverty and deprivation, or who have been smuggled for exploitation or trafficking. Finally, this definition states that all considerations relating to separated children's immigration status 'must be secondary and anchored in the principles of child welfare' (SCEP 2010: 7).

Not surprisingly, although most of the literature and policy work is beginning to reflect this change in terminology, the term 'unaccompanied' together with the above-mentioned categories, is still officially used

by European institutions and governments. This definitional and conceptual segmentation does not adequately capture or address the complexity of child migration experiences. Indeed it often produces fragmentation, overlapping and proliferation of regulations, services, approaches and procedures. More worryingly, the emphasis on one or more categories can be used in political and ideological arguments in ways which detract from children's rights.

An example is shown by the increasing attention paid to child trafficking by the institutions and some child rights agencies. As stated by O'Connell Davidson and Farrow (2007), given the definitional and practical problems associated with the trafficking phenomenon, when independent child migration is viewed as an outcome of trafficking and is therefore treated as a criminal justice issue, the related policy measures are extremely dangerous for children. Firstly, anti-trafficking measures are, at times, hardly distinguishable from general migration management measures. This results in the legitimisation of repressive policy measures to curb 'illegal' migration, with the risk of making child migrants more, rather than less, vulnerable to abuse and exploitation (O'Connell Davidson and Farrow 2007). Secondly, this approach implicitly or explicitly underplays the recognition that children can voluntarily decide to move to more prosperous and/or more secure cities or countries, and it deflects attention from the rights violations that prompt many children to migrate as well as from the risks children face in the country of arrival (O'Connell Davidson and Farrow 2007; Costella, Furia and Lanti 2011). Thirdly, it provides a convenient perspective for the increasing and generalising processes of 'criminalisation and victimisation' of migrants (Ayotte 2000; Palidda 2009b).

While research and policies conceptualise child migrants, in particular separated children, as vulnerable, and at risk of harm and exploitation, and that they are entitled to rights, there is still little systematic

questioning of the ways in which the policy and legal context of the European countries may contribute to their vulnerability. These laws and policies remain mainly informed by a criminalising and victimising discourse, which excludes them from a wide range of rights.

This paper argues that the criminalisation and victimisation of migrants represent two interrelated and significant narratives underpinning the United Kingdom and Italy's immigration laws and policies. The outcome is a distorted conception of the reality of child migration, protection gaps, harmful practices, and, more worryingly, a threat to their well-being and their life chances in the new country.

The argument developed in this paper is based on desk research. The identification of the guiding hypothesis at the core of this research is based on research undertaken and experience gained working as a children's rights consultant for the organisation Defence for Children International - Italy. This experience has been enriched with personal contact with separated children, their point of view, personal capacities and efforts to shape their own circumstances. Moreover, I had the opportunity to discuss the research topic with scholars from different disciplines and experts on child migration and children's rights.²

The article is structured in the following way: the first section examines the concepts of 'criminalisation' and 'victimisation', with the aim of highlighting their implications for the framing and production of separated children's vulnerability. The second and third sections

² I owe a debt of gratitude to Russell King, for his help, support and interest in my research during my stay as Visiting Research Fellow at the Sussex Centre for Migration Research (September 2011 to February 2012). I also thank Ralph Grillo, Marie-Bénédicte Dembour, Terry Smith, Michael Collyer and Nicola Mai for their valuable inputs, and I owe particular thanks to Gustavo Gozzi, Pippo Costella, Maria Paola Lanti and Gabriella Gallizia for their continued inputs and support.

provide the main body of analysis through a general overview of the British and Italian legislative and policy frameworks, as well as a discussion of the main harmful practices that prevent children from getting access to the support and rights to which they are properly entitled. The conclusion considers how the analysed policies and practices relate to the interpretation proposed in the first section.

Criminalisation, Victimisation and the Vulnerability of Separated Children

For almost a century, since the first analysis on the subject by scholars of the Chicago School was made, the relationship between migration and crime has been studied in great depth by sociologists and anthropologists using a variety of approaches and methodological perspectives (Cecchi 2011). In this paper the concept of criminalisation is identified as one of two predominant and interlinked processes that are useful to capture the logic, which is rarely explicit, underlying and legitimising the contemporary situation consisting of exclusionary laws and policies, harmful practices, omissions and restrictions on migrants' rights. These practices are intended to punish migrants for border crossing and presence on the territory of the state. More specifically, I argue that the criminalisation process plays an important role, directly and indirectly, in producing and making worse the vulnerability of separated children.

According to Palidda's Foucauldian approach, the criminalisation of migrants can be defined as involving 'all discourses, facts and practices because of which the police, judicial authorities, but also local governments, the media and a part of the population hold immigrants/aliens responsible for a large number of offences' (Palidda 2009a: 2). As suggested by this definition, the process of criminalisation – being multifaceted, operating at different levels (legislative, political, public opinion, media) and through a wide range of different strategies, instruments and

practices – is often hard to define and detect (Palidda 2009a). This is similar to processes such as the 'racialisation' (Palidda 2010) and 'securitisation' (Wæver, Buzan, Kelstrup and Lemaitre 1993; Huysmans 1998; Furia 2011) of migration issues.

In order to address its impact on the production and framing of separated children's vulnerability, the criminalisation process needs to be considered in its connection with the even more elusive victimisation process. This process can be considered as the result of the criminalisation process, more than as an autonomous process in itself.

According to Palidda the concept of victimisation suggests 'the fact that immigrants/aliens are themselves victims of misdemeanors committed by the nationals of the host country, by police agents and by their compatriots' (Palidda 2009a: 2). Under this perspective, the concept of victimisation allows to emphasise the partial and sympathetic viewing of separated children as 'naturally' passive, dependent and defenceless actors (Jordanova 1989; Fass 2005), and *per se* potential 'victims'.

The use of the term 'illegal' is an interesting example, among many others, of the way in which the criminalisation and victimisation logics perform in Italy, the United Kingdom as well as in other European countries. All the European Union institutions and member-state governments in fact use the expressions 'illegal immigrations' and 'illegal immigrants' to describe a specific group of immigrants: the group composed of people who come from non-Western countries, in particular from countries with low levels of material well-being, history of political conflicts and instability and/or authoritarian regimes (O'Connell Davidson and Farrow 2007; Giolo and Pifferi 2009; Santoro 2010). More worryingly, these terms are used to describe the migrants concerned even if they have not yet approached the European Union territory (Council of Europe Commissioner for Human Rights 2009).

As highlighted in the literature (O'Connell Davidson and Farrow 2007; Giolo and Pifferi 2009; Santoro 2010), opportunities to 'legally' cross borders are highly unequal for nationals of non-OECD countries who find themselves subject to far tougher restrictions for travelling abroad than nationals of OECD countries, with the deliberate result that 'those who are most likely to have good reason to wish to migrate across borders are those who are least likely to be able to do so legally' (O'Connell Davidson and Farrow 2007: 27).

Nevertheless the emphasis on the distinction between 'legal' and 'illegal' immigration, the political and legal construction of a specific group of migrants as 'illegal' and its connotation with 'criminality' (O'Connell Davidson and Farrow 2007; Giolo and Pifferi 2009; Santoro 2010), provide on the one hand, a convenient frame for the identification of this group of migrants as 'dangerous' and 'suspicious' in the eyes of the institutions and population, and on the other hand, a source of legitimation for police control and punitive measures against migration. In this way, attention is deflected from any attempt to discuss the implications and necessary balancing with respect to migrants' rights, dignity and safety.

Using the same logic, most European states including the United Kingdom (Immigration Act 1971 amended by the 1996 Asylum and Immigration Act) and Italy (law 94/2009), make it a criminal offence to 'illegally' cross external borders into national territories. The widespread use of criminal sanctions by European states (such as the criminalisation of 'illegal' entry), or administrative sanctions which imitate criminal ones (such as detention), with regard to immigration control has been increasingly questioned (Council of Europe Commissioner for Human Rights 2009); as well as its consequences regarding migrants' presence on territories and access to economic, social, education, health care, family reunion and participation rights (Bosniak 2008; Council of Europe Commissioner for Human Rights

2009; Palidda 2009b; Pepino 2009; Spencer and Pobjoy 2011).

If, as argued by Bosniak (2008: 4, 9), 'the regulation of national boundaries is not confined to the specific domain of the nation-state's physical or territorial border but extends into the territorial interior as well', then, as a consequence, immigrants 'remain outsiders in a significant sense: the border effectively follows them inside'. Similarly, they remain potential criminals and/or victims, as the criminalising and victimising narratives and practices also follow them inside the territory.

The criminalisation and victimisation of migrants have also had an alarming impact on the framing and production of the vulnerability of separated children as the conditions under which the role of policing and punishment in immigration management have been increasingly expanded and presented as a necessary and proportionate strategy to prevent and address the impending or occurring threats (Council of Europe Commissioner for Human Rights 2009; Palidda 2009b). O'Connell Davidson and Farrow (2007) point out that:

Although legality is not, in itself, a guarantee of security and protection, being politically constructed as 'illegal' makes it much harder to access services, justice and social protection, and exposes children to the additional harm of violence, abuse and other forms of harm from state actors charged with controlling 'illegal immigration' (O'Connell Davidson and Farrow 2007: 11).

In spite of that, when dealing with the vulnerability of separated children, national policies and laws mirror the idea that all problems relating to child migrants come from abroad and that European states should be considered only as present or potential sources of protection (Touzenis 2006; Erenajor 2008; Costella, Furia and Lanti 2011). The result is that analyses, measures and strategies to prevent and address the vulnerability of separated

children focus mainly on children's inherent fragility, and on their *past* experiences (for example, physical and psychological dangers of migration, condition of the country of origin, memories of war, etc.) (O'Connell Davidson and Farrow 2007; Eneajor 2008; Costella, Furia and Lanti 2011).

Such perspectives are rarely balanced with an analysis of the impact of the conditions of the host country and of the *present and future* challenges separated children face in the country of destination. This results in measures which are not effective in taking into account their needs and in promoting their agency, personal resources and extraordinary resilience even in the most challenging situations (Costella, Furia and Lanti 2011). On the contrary, as I will later demonstrate in this paper, the political and legislative systems of countries of destination, as well as their criminalising and victimising discourses, should be considered as closely linked to the production and/or worsening of separated children's vulnerability.

Overview of Legislative and Policy Frameworks

Italy and the United Kingdom have both ratified the United Nations Convention on the Rights of the Child (CRC)³ and several other international and European covenants which are applicable to the situation of separated children. In September 2008, the United Kingdom lifted its previous reservation to Article 22 of the Convention recognising that the 'best interests of the child' are a 'priority' alongside immigration status issues rather than subordinate to them. Consequently, all legal provisions protecting the rights of children in the two countries should equally apply to all minors irrespective of their nationality. The best interests of the child should be a primary consideration 'in all

actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies' (Art. 3 of the CRC). Access to the rights to protection, education, health care and welfare, freedom of expression, participation, social inclusion and cultural life and access to information concerning them, should apply to all children, including separated children.

Nevertheless, the destinies of children migrating alone are still widely determined by the two national legislative and policy systems. In both contexts, several provisions, measures and procedures are in place with the aim of taking into account the vulnerability of separated children, and they stem from two different models relating to the entry, reception and protection of separated children. Being mostly based on asylum law, the United Kingdom's legislative and policy framework is considered as constituting an 'asylum model', whereas in Italy the relevant legislative and policy framework stems mainly from the national child protection system, resulting in what is known as a 'protection model' (Giovannetti 2009: 57). This difference is reflected in the definitions used by the national institutions with regard to children migrating alone.

The Border Agency and local authorities in the United Kingdom usually describe separated children as 'unaccompanied asylum seeking children' (UASCs) or simply 'unaccompanied minors'. In its guidance on *Processing Applications from a Child* (UK Border Agency 2011a: para. 4.2) the Border Agency defines an unaccompanied asylum-seeking child as a child who is:

- applying for asylum in his/her own right; and
- is separated from both parents and is not being cared for by an adult who by law has responsibility to do so.

It further adds that a child may move between the unaccompanied and accompanied categories whilst his/her application is under consideration. This

³ It is worth highlighting that the United Kingdom has not yet incorporated the Convention into national law.

definition amended an earlier definition which made reference to an 'adult family member' and to an 'adult who is responsible for them' (Bhabha and Finch 2006: 20), without indicating any further requirements.

In the Italian context all legal provisions and measures for the care and protection of children equally apply to all minors, irrespective of their immigration status but the relevant procedures and competences are based on two different legal definitions of separated children. The Italian institutions and authorities usually refer to separated children as 'unaccompanied foreign minors' or 'unaccompanied minors', and differentiate between unaccompanied minors who are asylum-seekers and unaccompanied minors who are not asylum-seekers.

The definition of unaccompanied (non-asylum-seeking) minors is stated in Article 1, paragraph 2 of the Regulation on the tasks of the Committee for Foreign Minors (President of the Council of Ministers Decree 535/1999), according to which the 'unaccompanied foreign minors on the Italian territory' are 'children without Italian or any other EU country's citizenship, who – *not having applied for asylum* – find themselves in Italy without care and representation of parents or other legal guardians according to the Italian laws' [*italics added*]. Unaccompanied asylum-seeking minors are defined in Article 2, paragraph 1, letter f) of Legislative Decree 85/2003 – implementing Council Directive 2001/55/EC – as:

- nationals of non-EU countries or stateless persons below the age of eighteen, who enter the national territory without being accompanied by an adult; and
- for as long as they are not effectively under the custody of an adult who is responsible for them;
- minors who have been abandoned after they have entered the national territory.

This definition is inconsistent with the definition specified in Article 2 of the referred Council Directive. In addition it is not satisfactory because it does not require the 'accompanying' adult to have legal or customary responsibility for the child in question, whereas the Council Directive makes reference to an adult responsible for the child 'whether by law or custom'.

Although being based on two different 'models' and legislative frameworks, the situation facing separated children in the United Kingdom and in Italy is alarmingly similar. In both countries, the complexities of the immigrations systems, the tensions and confusion between child protection law, policy and approach and immigration law, policy and approach, the efforts to prevent the arrival of immigrants and asylum seekers, and the harsh cuts in the welfare social systems all combine to have significant implications for separated children (Bhabha and Finch 2006; Crawley 2006; Giner 2008; Rozzi 2008; Giovannetti 2009; Gibney 2011).

The United Kingdom's legislative and policy framework

The United Kingdom's policy and practice with regard to separated children is directed by primary legislation, secondary legislation, European Union Regulations and Directives⁴ and case law (Rice and Poppleton 2010). The Home Office is the governmental department responsible for immigration and asylum policy in the United Kingdom. Within the Home Office, the UK

⁴ In October 2011 the Immigration Minister Damian Green informed Parliament that the United Kingdom will not be opting in to the recently amended Reception Conditions and Procedures Directives. The Immigration Minister said: 'This Government does not support a common asylum system in Europe. That is why we have not opted in to these directives and will not opt in to any proposal which would weaken our border'. According to the government, signing up to the Directives 'would have sent out the wrong message, encouraging those who do not need our protection to make unfounded asylum claims'. Available at: <http://www.homeoffice.gov.uk/mediacentre/news/EU-asylum?version=1> (accessed November 2011).

Border Agency regulates all entries to and/or stay in the United Kingdom of non-British citizens (Rice and Poppleton 2010). The accommodation and care of separated children fall under the responsibility of local authorities who are entrusted with social services responsibilities and that is where they first come to the attention of the authorities.

The Immigration Rules, under the 1971 Immigration Act, are pivotal to the United Kingdom asylum and migration system. They include provisions pertaining specifically to the safeguarding and promotion of separated children's welfare during key parts of the asylum process (Rice and Poppleton 2010), and are based on the assumption that particular care and priority should be given to asylum applications from children (para. 350 of Immigration Rules). Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the Secretary of State to make arrangements to ensure that immigration, asylum, nationality and customs functions are exercised correctly, taking into account the need to safeguard and promote the welfare of children in the United Kingdom. In November 2009 a statutory guidance, entitled *Every Child Matters: Change for Children*, was issued jointly by the Home Office and the Department for Children, Schools and Families under Sections 55 (3) and 55 (5) of the Act to accompany this duty (Rice and Poppleton 2010).

The removal of migrants 'illegally' residing within the territory, including separated children, is covered by the 1971 Immigration Act. However, as a matter of policy, a separated child may not be removed if adequate conditions for his/her care and reception cannot be assured in the country of return (Rice and Poppleton 2010; France Terre d'Asile 2011). The 1971 Immigration Act and the 2002 Nationality, Immigration and Asylum Act allow separated children to be detained for immigration purposes but, in terms of policy, separated children may not be detained except in the most exceptional

circumstances, for the shortest time possible and in order to ensure their safety (Rice and Poppleton 2010).

The UK Border Agency has also adopted a number of policies relating to the manner in which asylum applications from separated children should be handled, including guidelines, instructions and procedures to be followed. Separated children considered to be twelve years old or over are entitled to receive legal aid to assist them with their asylum application. Their claims should be dealt with by a case worker trained to deal with children (Rice and Poppleton 2010; UK Border Agency 2011a). Interviews should be conducted in a language that they can understand (where necessary, in the presence of an interpreter), with child-sensitive and child-appropriate questioning techniques and in the presence of a 'responsible' adult who cannot be a Police or Immigration Officer, but rather a person they trust (e.g. a social worker, other member of staff of a local authority or civil society organisation, a legal representative or a foster carer) (Rice and Poppleton 2010; UK Border Agency 2011a).

The key piece of legislation regarding the placement and care of separated children is the 1989 Children Act,⁵ which entrusts local authorities with a duty to safeguard and promote the welfare of children within their area who are 'in need', and to meet these needs by providing a range of appropriate services (Sections 17 and 20 of the Act).

As a consequence of the Victoria Climbié inquiry⁶ the 2004 Children Act amended

⁵ This legislation applies to England and Wales only, while similar legislation is in place in Scotland and Northern Ireland (Rice and Poppleton 2010).

⁶ Victoria Climbié was born in November 1991 in the Ivory Coast and died in February 2000 in London aged eight. To escape the poverty of Africa, her parents had entrusted her to her great aunt who had brought her to Europe. Although Victoria was seen by dozens of social workers, nurses, doctors and police officers before she died, all failed to spot the abuse and she was slowly tortured to death by her great aunt, Marie Therese Kouao, and the woman's partner, Carl Manning. As a consequence of her death, an extensive investigation into the child

the 1989 Children Act. Section 11 of this Act imposes a duty on public bodies who come into contact with any child to 'ensure that their functions are discharged having regard to the need to safeguard and promote the welfare of children.' The above-mentioned Section 55 of the 2009 Borders, Citizenship and Immigration Act placed a similar duty also on the UK Border Agency, which had previously been excluded from it (UK Border Agency and Department for Children, School and Families 2009).

The Children Act 2004 also introduced a statutory framework for local cooperation requiring agencies to work together more closely in multidisciplinary teams to promote the formation of Local Safeguarding Children Boards (LSCBs) and to coordinate the functions of all partner agencies (Giner 2008; Sigona 2011). Until recently, concerns had been raised for the exclusion from compulsory participation of the Immigration Service, National Asylum Support Service and detention centres' professional officials (Nandy 2006; Crawley 2006; Giner 2008), although with the advent of the statutory guidance *Every Child Matters: Change for Children*, the UK Border Agency is required to commit to greater participation in LCSBs (UK Border Agency and Department for Children, School and Families 2009).

The government's response to the death of Victoria Climbié was set out in various documents – amongst which *Keeping Children Safe* (2003) and a Green Paper entitled *Every Child Matters* (2003) – which led to the 2004 [Children Act](#) above analysed. The Green Paper instigated a wide-ranging debate about services for children, young people and families, which culminated in *Every Child Matters: Next Steps* (2004). The framework provided through this document constituted the basis of a new approach to childcare services entitled *Every Child Matters:*

protection system was conducted. Available at: http://news.bbc.co.uk/1/hi/in_depth/uk/2002/victoria_climbie_inquiry/default.stm (accessed December 2011).

Change for Children (Crawley 2006). The *Every Child Matters* (ECM) framework aims to bring about a large-scale reform of child services in order to ensure that children and young people are able to achieve, irrespective of their background or their circumstances, the following five main outcomes: be healthy, stay safe, enjoy and achieve, make a positive contribution and achieve economic well-being (Crawley 2006). The ECM framework is widely regarded as a positive step forward in improving children's services and creating better outcomes for children (Crawley 2006). *Every Child Matters: Change for Children*, the Children Act 2004, together with a wide range of other national and local initiatives, have provided 'a much-needed impetus for change' (Joint Chief Inspectors 2008: 4) and 'over the last decade have considerably transformed child welfare policies in the UK' (Sigona 2011: 5).

The above-mentioned improvements, as highlighted also by the literature and non-governmental organisations, need to be considered in light of: a) the barriers erected to prevent the arrival of asylum seekers, including extraterritorial measure,⁷ b) the gap between the institutions' stated policies and their practice, and c) measures designed to reduce the cost of the asylum support system (Bhabha and Finch 2006; Crawley 2006; Giner 2008; Sigona 2011; Gibney 2011). The impact of ambivalent and harmful practices on separated children's well-being and rights, especially concerning entry, age assessment, the lack of a guardian, detention and returns of separated children, has generated considerable controversy in recent years

⁷ As reported by Gibney, in order to bypass the problem of removing (failed) asylum-seekers, the United Kingdom has been increasingly taking part in a range of extra-territorial migration control measures in recent years, including: 'offshore immigration controls and pre-inspection (e.g., at Gare de Nord in Paris and at Prague Airport in the Czech Republic), participation in EU measures to police the Mediterranean through FRONTEX operations, schemes for off-shore processing, and fines on carriers that bring individuals without documents to the UK' (Gibney 2011: 5).

(Bhabha and Finch 2006; Crawley 2006; Giner 2008; Coles and Farthing 2011).

While the Home Office considers itself as following Britain's tradition of being 'open to those who are seeking asylum from prosecution', ⁸ the procedures for determining the applicant's eligibility for asylum are considered controversial and, according to many legal experts and academics, affected by the 'culture of disbelief' that is shared by all levels of Home Office decision-makers (Bhabha and Finch 2006; Gibney 2011). As argued by Bhabha and Finch, this 'culture of disbelief', 'evinced in a presumption by officials that applicants are attempting to abuse the system' (Gibney 2011: 3), can affect separated children's opportunities and condition in different ways: firstly, by feeding the assumption that children are 'appendages of adults who do not attract persecution in their own right' and apply for asylum at the instigation of an adult; secondly, by providing the idea that societies of origin protect their children and would probably not put them at risk of being separated from their families and/or subjected to forms of abuse, torture or persecution; thirdly, by promoting the assumption that child asylum-seekers have 'a family hidden away awaiting them when they choose to return home' (Bhabha and Finch 2006: 11-12). According to the Home Secretary, the government of the United Kingdom has made 'substantial progress in recent years in meeting the challenges posed by migration' (Border and Immigration Agency 2008: 5). Not surprisingly, the list of positive outcomes includes 'a *huge reduction* in the numbers of asylum applications and record performance on removals of foreign national prisoners and immigration offenders' [*italics added*] (Border and Immigration Agency 2008: 5). In the same document, entitled *Path to Citizenship: Next Steps in Reforming the Immigration System*,

under the heading *Holding newcomers accountable for their behaviour*, the immigration system is nevertheless presented as a 'compassionate system' committed to the asylum obligations and to making and enforcing decisions with a more sensitive treatment for children (Border and Immigration Agency 2008: 11). Whether or not the sharp decrease in the number of applicants, including separated children, since the early 2000s could be considered in itself a success is highly problematic and widely disputed, as well as the proclaimed 'compassionate' nature of the immigration system and its 'sensitivity' to children's needs, well-being and rights.

The effects of this culture of disbelief and the ambivalence of the asylum system are partially attenuated by the fact that separated children are cared for within the general United Kingdom child protection framework. Notwithstanding this, the ability of the framework to evenly deliver services to all children is also disputed and may be impeded by the lack of resources and funding by the government (Bhabha and Finch 2006; Crawley 2006; Giner 2008; Joint Chief Inspectors 2008; Brownlees and Finch 2010). This is highlighted in the Joint Chief Inspectors Report of 2008, which reports that providing services for asylum-seeking children is a challenging and complex task, affected by variable factors such as the number and proportion of separated children looked after. Overall, 'the quality of provision for asylum-seeking children who are looked after is more variable than for other looked after children in the same area'; 'their options for accommodation are often more limited and asylum-seeking children are frequently placed outside their host areas', with the risk of inadequate needs assessment, support and safeguarding (Joint Chief Inspectors 2008: 55).

Other concerns focus on the distinction between Sections 17 and 20 of the 1989 Children Act. Section 17 places a duty on local authorities to 'safeguard and promote the welfare of children within their area who are in need', 'by providing a range and level

⁸ Prime Minister's speech on Immigration, 10 October 2011, available at: <http://www.number10.gov.uk/prime-ministers-speech-on-immigration> (accessed November 2011).

of services appropriate to those children's needs'. Local authorities are allowed to delegate this duty to another entity which would act on behalf of the local authority (in particular voluntary organisations), provide services and, in exceptional circumstances, give assistance in cash (Refugee Council 2007). Section 20 of the Act places a duty on a local authority to 'look after' a child in need, if it is considered that 'to do so would safeguard or promote the child's welfare'. This duty includes the design and review of a care plan for every child, consultation with a child about accommodation, efforts to keep siblings together, and the provision of services to children leaving care (Refugee Council 2007).

Several research projects have reported that some local authorities are still not adhering to the 2003 Hillingdon Judgement and the governmental Local Authority Circular of 2003.⁹ The latter states that where a separated child has no parent or guardian there is a presumption that the child will be looked after under Section 20 of the 1989 Children Act. The provision of unsupervised placements and limited support, in particular when children are 16 or 17 years of age, therefore constitutes an inappropriate use of Section 17 (Bhabha

⁹ The landmark judgment referred to as the Hillingdon judgement (*The Queen on the Application of Behre & Others v. the London Borough of Hillingdon*, 2003, EWHC 2075 (Admin), was made in 2003 regarding the use of Sections 17 and 20. As pointed out by the Refugee Council: 'Mr Justice Sullivan ruled that during the period of time relevant to that case the local authority did not have the power to provide accommodation for children in need under Section 17 of the Children Act 1989. The act of providing accommodation made the children "looked after" by the local authority under Section 20 and afforded all the protections and rights associated with that duty' (Refugee Council 2007: 2). Local Authority Circular (2003) 13, issued by the Department of Health on 2 June 2003, reaffirmed that where a separated child has no parent or guardian in the United Kingdom, the presumption should be that the child would need to be looked after under Section 20 of the 1989 Children Act and they would be cared for under Section 20 while the needs assessment is carried out (Refugee Council 2007).

and Finch 2006; Refugee Council 2007; Joint Chief Inspectors 2008).

The Italian legislative and policy framework

Italian policy and practice with regard to separated children is regulated by primary legislation, secondary legislation and European Union Regulations and Directives. In addition, a number of fundamental issues are dealt with by ministerial memorandums, circulars or directives providing the government's interpretation and guidelines for the enforcement of the laws (Rozzi 2008; Olivetti and De Nicolais 2010). The Ministry of Interior is the governmental department responsible for immigration and asylum policy in Italy. All entries to and/or stays in Italy of non-Italian citizens are regulated by the Police authority under the Ministry of Interior.

The accommodation and care of separated children fall under the responsibility of the competent judicial authorities for child protection (Juvenile Court and Tutelary Judge) and of the local authorities with social services responsibilities where they first come to attention (Furia and Gallizia 2011). In addition according to the Italian Civil Code, when a child is found in a situation where he/she lacks an adequate household, social workers and/or Police officers who come into contact with the child have a duty to immediately provide the child with a secured shelter (Art. 403).

The main laws and regulations concerning the entry, stay and the issuing of residence permits for separated children are the Immigration law 286/1998 (as modified by a number of laws, including law 189/2002, 94/2009 and 129/2011), Presidential Decree 394/1999 as modified by Presidential Decree 334/2004, President of the Council of Ministers Decree 535/1999 and a number of Ministerial memorandums mostly issued by the Ministry of Interior.

According to these provisions children who are 'illegally' in the country cannot be removed. The only exceptions have to do

with public order and State security. In such cases the Juvenile Court will order their removal (art. 19, para 2 and art. 31, para 4 of Immigration law). Under Italian immigration law, separated children cannot be detained with immigrants but must be placed in children-hosting facilities. In addition, Article 28, paragraph 1, letter a) of Presidential Decree 394/1999 as modified by Presidential Decree 334/2004, states that separated children are entitled to a residence permit 'for minor age'. This residence permit can be issued only in case of absence of the conditions for the issuing of other types of permits, such as for asylum application, fostering, family reasons, or others (circular of the Ministry of the Interior of 23 December 1999, Title IV), and when possible it must be converted into the applicable other type of residence permit (circular of the Ministry of Interior of 9 April 2001).

Separated children in Italy are cared for within the general national child protection framework and they are entitled to the same protection measures (appointment of a guardian, appropriate protection and support, accommodation in a safe place, foster care and adoption) and to the same education and health care rights as national children. According to the Civil Code (appointment of a guardian, Art. 343 and ff.) and to law 184/1983 as modified by law 149/2001 (foster care, adoption and/or other protection measures), the competent Juvenile Court and the Tutelary Judge have a duty to take protection measures. Local municipalities are responsible for their placement and care, which includes the financial administration of these services (Art. 23, letter c) of Presidential Decree 616/1977, Art. 33, para. 2, letter b) of Immigration law, law 328/2000).

Other than the competent national authorities, a specific inter-ministerial body – the Committee for Foreign Minors – is in charge of collecting data and information on separated non-asylum-seeking children, verifying their status/identity, overseeing their residence conditions, coordinating the

administrative bodies involved in their care, as well as for researching their families and arranging their return when possible. As already mentioned, separated asylum-seeking children are considered separately. The directive of 7 December 2006, which re-stated earlier provisions also included in a number of earlier laws (Pittau, Ricci and Ildiko Timsa 2009), was issued by the Minister of the Interior and the Minister of Justice with the aim of reinforcing the responsibility of institutions taking care of separated asylum-seeking children. According to this directive and to Legislative Decree 25/2008, separated asylum-seeking children must be provided with information about their entitlements, services available and the asylum process, as well as with the appropriate legal support and interpretation/cultural mediation services. Their asylum applications must be brought to the attention of the Juvenile Courts and the Tutelary Judge who has territorial jurisdiction for the appointment of a guardian. The guardian, in turn, is responsible for confirming the application and assisting the child during the whole process. The local authority where a separated asylum-seeking child resides is responsible to immediately report the child to the Central Service of the *System of Protection for Asylum Seekers and Refugees* (SPRAR) so that he/she can access the SPRAR child reception facilities, support and protection services. If the SPRAR cannot immediately accommodate the child in its facilities, placement and care must be provided by the local authority.

The Italian regulations on immigration, asylum and child protection are scattered among a large number of laws, government decrees, ministerial directives, and circulars characterised by a lack of coordination and organisation (Rozzi 2008; Olivetti and De Nicolais 2010). Furthermore, there are no comprehensive guidelines for their standardised enforcement, resulting in different interpretations of the regulations and varying implementational standards of practices and procedures across the country, in particular with regard to entry,

age assessment, appointment of a guardian, detention and return of separated children, as well as to the quality of provision for their care and accommodation (Rozzi 2008; Giovannetti 2009; Olivetti and De Nicolais 2010; Furia and Gallizia 2011) .

In an attempt to standardise procedures, reception and living conditions of separated children in Italy and within Italian regions themselves, the *System of Protection for Asylum Seekers and Refugees* (SPRAR) and the *National Program for the Protection of Unaccompanied Foreign Minors* for separated non-asylum-seeking children, were established in 2002 (Art. 32, paras 1-*sexies* and *septies* of law 189/02) and in 2007 (financed by the Fund for social inclusion of immigrants 2007). The SPRAR is comprised of local municipalities whose local projects are selected through a call for project proposals and co-funded by the *National Fund for Asylum Policies and Services*.¹⁰ The aim of the System is to support the implementation of projects by promoting the development of an 'integrated reception' system for asylum-seekers and refugees, including appropriate placement, information, legal support, interpretation/cultural mediation, health care, education services and socio-economic integration measures.¹¹ The Ministry of Interior acts as 'institutional guarantor' delegating the operational aspects to the Central Service managed by the National Association of Italian Municipalities (ANCI), with responsibilities concerning information, monitoring and technical support for the local municipalities involved in the Protection System. Within this System, which currently includes 128 municipalities, special projects for separated children are run in order to answer to their specific needs for safe accommodation, support and

integration. In 2008, 409 separated children were hosted in the SPRAR child accommodation facilities, which decreased to 320 in 2009 and 253 in 2010 (SPRAR 2011).

The *National Program for the Protection of Unaccompanied Foreign Minors* is financed by the Ministry of Labour and Social Policies whereas its implementation is entrusted to the Technical Secretary managed by the National Association of Italian Municipalities (ANCI).¹² The Program, currently including 32 municipalities, was set up to promote the coordination and standardisation of procedures, services and support for separated non-asylum-seeking children provided by local municipalities. Special attention was given to the initial reception phase. Operational guidelines were developed to deal with identification, the appointment of a guardian, placement, education and health care, and interpretation/cultural mediation. In addition, economic support was granted to local municipalities selected through a call for project proposals (ANCI 2009).

With similar aims, the Ministry of Interior issued on 13 February 2009 a circular urging Italian prefectures within their Territorial Councils on Immigrants (established in 1999) to constitute special sections on migrant children which would coordinate the actions of key local actors. The special sections would collect data on looked after separated children, children who disappear from reception facilities, as well as monitor the level of provision and services, and verify the timely adoption of protection measures for separated children.

Nevertheless, despite these and other efforts promoted at local and national levels to achieve standardisation and in part due to the reduced number of separated children who have access to these systems, the practices, procedures

¹⁰ Detailed information available at: <http://www.serviziocentrale.it/> (accessed November 2011).

¹¹ For more information on the services provided by local authorities under the SPRAR and on the approach adopted, please see: <http://www.serviziocentrale.it/?AccoglienzaIntegrata&i=3&s=5> (accessed November 2011).

¹² For more details see: http://www.lavoro.gov.it/Lavoro/md/AreaSociale/Immigrazione/minori_stranieri/Programma+nazionale+di+protezione+dei+minori+stranieri+non+accompagnati.htm (accessed November 2011).

and time frames for taking care of separated children and enforcing the relevant regulations are still very different and often not effectively based on partnership between different agencies (Rozzi 2008; Pittau, Ricci and Ildiko Timsa 2009; Candia, Carchedi, Giannotta and Tarzia 2010; Furia and Gallizia 2011). The quality of provision for separated children is extremely variable due to the different numbers of separated children that are looked after by local authorities. In addition, the ability to deliver services and effectively protect children is often hindered by a lack of resources, effective coordination and monitoring systems (Giovannetti 2009; Pittau, Ricci and Ildiko Timsa 2009; Candia, Carchedi, Giannotta and Tarzia 2010; Bender and Bethke 2010; Costella, Furia and Lanti 2011).

In recent years, the overcrowding and poor conditions of reception centres for children and the improper placement of children in adult migrants centres, particularly in some areas of Sicily and in the Isle of Lampedusa,¹³ have been widely publicised together with a lack of information, appropriate procedures and competences in dealing with separated children, legal counselling, and cultural mediation services (Save the Children 2009a, 2009b, 2010; Furia and Gallizia 2011). Furthermore, the already critical situation in some areas of the country has been recently worsened by the substantial increase in the number of migrants, including separated children, fleeing wars, political disruptions and poverty who landed on the Isle of Lampedusa after crossing the

¹³ The Isle of Lampedusa is the southern-most isle of Europe (around 80 miles from the coast of North Africa) and the main entry point to Europe for migrants from African countries. In 1998 a Temporary Detention and Assistance Centre (CPTA) for migrants was established on the Isle, which in 2006 became a First Aid and Reception Centre (CSPA). Also in 2009 a Centre for Identification and Expulsion (CIE) was established. For more details see <http://www.interno.it/mininterno/export/sites/default/it/temi/immigrazione/sottotema006.html> (accessed December 2011).

Mediterranean Sea.¹⁴ Serious concern for substandard reception and living conditions for migrants, especially children in Sicily and on the Isle of Lampedusa, has been expressed by several NGOs and European Union representatives,¹⁵ as well as by the United Nations Committee on the Rights of the Child in its reviewing of the periodical report on the implementation of the Convention submitted by the Italian government (Committee on the Rights of the Child 2011).

As a consequence of recent instability and revolutionary changes in the North African region, the Italian government declared in February 2011 a humanitarian emergency status. This enabled the government to implement emergency measures and plans for the reception of the mass influx of migrants, which have been recently prolonged to the end of 2012. In addition, the government has recently declared Lampedusa an 'unsafe port'. This decision has been highly criticised by several NGOs, and UNHCR, IOM, and Save the Children Italy have released a joint communication

¹⁴ The year 2011 set a sad record: up to November 2011, 1971 people drowned in the Mediterranean Sea while trying to reach European territory from North Africa by boat. Therefore the Dutch Member of the Parliament Tineke Strik has been asked by the Parliamentary Assembly of the Council of Europe to prepare a report on the deaths of people who have died and continue dying on boats in the Mediterranean since January 2011, very often because their appeals for rescue are ignored by armed forces operating in the Mediterranean. Reported by the European Council on Refugees and Exiles (ECRE) Bulletin of 2 December 2011, available at: <http://www.ecre.org> (accessed December 2011).

¹⁵ A delegation of Members of the European Parliament's Committee on Civil Liberties (LIBE) visited from 24 to 28 November 2011 the asylum reception centres of Trapani, Mineo and Lampedusa, in Sicily. Cecilia Wikstrom, Head of the LIBE delegation, highlighted the very poor conditions of the reception centre for asylum-seekers in Trapani, where there is no water in some toilets, rooms are overcrowded and the overall hygienic conditions are very low, and stated that 'in these conditions it is very difficult to protect human dignity'. Reported by the European Council on Refugees and Exiles (ECRE) Bulletin, 2 December 2011, available at <http://www.ecre.org> (accessed December 2011).

expressing serious concern because this decision ‘undermines the entire rescue at sea system for migrants and asylum seekers and at the same time could make rescue operations much more hazardous and complex’.¹⁶

Even before the recent mass influx of migrants, the attitude of the Italian government towards migrants had become more harsh, aiming at preventing or deterring, also through extraterritorial measures,¹⁷ the arrival of migrants or ensuring their return to the country of origin (Rastello 2010; Santoro 2010). As a consequence of the new political scene since April 2008, in August 2009 a law on ‘security’ was approved by the Italian Parliament (law 94/2009). It is the latest and widest of the five legal acts constituting what the government defined as a ‘security package’, whose approval was accompanied by an aggressive government discourse against migrants (Maccanico 2009). As stated by a number of NGOs, associations of judges, legal experts and civil society organisations, the above-mentioned law represents a restriction of migrants’ rights. It does so mainly through measures producing the ‘criminalisation’ of ‘illegal’ migrants, making it more difficult to obtain and keep a legal immigration status, and considerably limiting directly or

¹⁶ UNHCR, IOM, and Save the Children Warn that Italy’s Decision to Declare Lampedusa a Non-Safe Port Endangers Sea Rescue Operations, 1 October 2011, available at: <http://migrantsatsea.wordpress.com/2011/10/01/unhcr-iom-and-safe-the-children-warn-that-italy%E2%80%99s-decision-to-declare-lampedusa-a-non-safe-port-endangers-sea-rescue-operations> (accessed October 2011).

¹⁷ Besides taking part in FRONTEX operations and introducing fines on carriers that bring migrants to Italy without the necessary entry requirements, the Italian governments have increasingly been promoting a policy for the ‘externalisation of borders controls’ by signing agreements for the funding and setting up of ‘reintegration centres’ in a number of countries of origin and transit (e.g. Libya, Egypt, Tunisia) (Rastello 2010). The map of these centres is available at: <http://www.migreurop.org/rubrique266.htm> (accessed November 2011).

indirectly, access to a wide range of fundamental rights for migrants, including separated children (Maccanico 2009; Miazzi and Perin 2009; Pepino 2009). Some Courts have challenged the law’s constitutionality for reasons which include the criminalisation of mere ‘social and personal conditions’ rather than for acts committed willfully, and for the law being ‘unreasonable’ (Maccanico 2009: 2).

More worryingly, a wide range of provisions have had a harmful impact on separated children’s rights and welfare. These include the introduction of more restrictive criteria in order to obtain a permit of stay upon reaching adult age, and the fact that the law does not specify that separated children will be exempt from some of the new provisions (e.g. the crime of illegal stay and entry in the country) (Miazzi and Perin 2009).

With regard to the critical issue of the conversion of permits of stay for separated children upon turning 18, law 129/2011, which came into force on 2 August 2011, has introduced a positive change, allowing, upon the positive opinion of the Committee for Foreign Minors, a permit of stay for a child to be converted even where the envisaged criteria (having been in Italy for at least three years and having been involved in a social integration project for at least two years) are not fully met. Only time will tell what impact this will have on the lives of separated children in Italy.

‘Worst’ Practices and Protection Gaps

This section examines how some of the common, worrying practices and protection gaps affect separated children’s rights and well-being in the United Kingdom and Italy. Other practices (e.g. the detention of separated children or their forced removal), socio-legal and institutional barriers relating to the access to asylum and migration procedures and socio-educational services, as well as protection gaps, can be analysed and identified as ‘worst’ in the two countries. However, the aim of this section

is to focus on those that are common and not particularly country-specific, but which may also occur at the very first stage of the child's experience in the country of destination. Evidence is in fact increasingly suggesting that the first contact with the new context and the measures or practices implemented at that stage, mark a decisive moment in the child's experience and have a crucial impact on his/her well-being and safety from that stage onwards (Eneajor 2008; Costella, Furia and Lanti 2010).

Safe entry or secure borders?

It is widely acknowledged that the introduction of increasingly tougher immigration policies and stricter border controls by destination countries has led to the emergence of a growing market for clandestine 'migration services' (e.g. smuggling across borders, faking travel documents, arranging marriages), constituting the irregular channels through which the overwhelming majority of separated children move to the European countries (O'Connell Davidson and Farrow 2007). As broadly reported, being jailed on entering transit countries, being exposed to beatings, raids, travelling for months, often crammed in car boots or in overcrowded boats, hidden in lorries or hanging underneath trucks, are part of the migratory experience of most separated children who arrive in the United Kingdom and Italy (Amnesty International 2006; Save the Children 2009a, 2009b; Refugee and Migrant Justice 2010; Matthews 2011). In addition, moving through irregular migration channels not only exposes separated children to serious risks and harmful dangers during the process of movement, but it can also 'lock them into forms of dependency on unscrupulous third parties after they have reached the country of destination' (O'Connell Davidson and Farrow 2007: 28).

The way in which border controls are applied in the United Kingdom and Italy poses serious concerns and implications for separated children's rights and the impact on their well-being and safety. Since 1994,

a system of juxtaposed controls¹⁸ has been established by the United Kingdom in order to strengthen the cross-channel border (Rice and Poppleton 2010). Under this system, immigration officers are placed at seaports and Eurostar stations in France and Belgium in order to check the immigration status and travel documents of people wishing to enter the United Kingdom (Immigration Liaison Managers also operate at various airports playing a similar role) (Bhabha and Finch 2006). Immigration officers have the power to make full immigration decisions on passengers travelling to the United Kingdom and to refuse the entry to travellers who do not have valid documentation or whose travelling purpose is believed to be not genuine (Refugee Council 2002).

According to the Refugee Council (2002) the target of these controls is not 'illegal' migrants, who are unlikely to travel quite openly in full view of the authorities, but rather all asylum-seekers. More worryingly, 'there are no statistics on the numbers of individuals refused leave to travel to the U.K. or on whether any of those refused are [...] separated children' (Bhabha and Fich 2006: 26). Similarly, in 2009 Italy implemented some so-called 'measures against illegal immigration' by pushing back boats carrying migrants, including children, in the Mediterranean Sea to Libya, without examining the individual circumstances of each child or providing each child with a possibility to request asylum (Save the Children 2009c; Committee on the Rights of Child 2011). Furthermore, as reported by non-governmental and civil society organisations, when separated children reach the shores of the United Kingdom or Italy, sometimes they face the risk of being treated by police and immigration officers in

¹⁸ The juxtaposed controls were first set up in respect of Eurotunnel for shuttle trains operating between Coquelles and Cheriton in 1994. The United Kingdom currently operates immigration controls in France and Belgium at the ports of Calais, Coquelles, Dunkerque, Boulogne-sur-Mer and at Eurostar terminals at Paris-Gare du Nord and Brussels-Gare du Midi (Rice and Poppleton 2010).

abusive and traumatising ways that do not fully comply with the duty to safeguard and protect their well-being and rights (Refugee and Migrant Justice 2010; Save the Children 2009a, 2009b).

The culture of disbelief in practice: age assessment

The assessment of age is a complex and crucial procedure, affecting the children's right to access child services and protection measures. Separated children very rarely have documents to confirm their identity and to prove that they are under the age of eighteen (SCEP 2011). The United Nations Committee on the Rights of the Child established in its General Comment no. 6 on the *Treatment of Unaccompanied and Separated Children Outside their Country of Origin* (2005)¹⁹ that age assessment should be made sparingly and take into account not only the child's physical appearance, but also his/her psychological maturity. It should be conducted in a scientific, safe, child and gender-sensitive manner, avoiding any risk of violation of the physical integrity of the child. It should give due respect to human dignity, and, in the event of uncertainty, should accord the individual the benefit of doubt. More importantly, according to the General Comment, if there is a possibility that the individual is a child, he or she should be treated as such.

In the United Kingdom there is no specific legal provision concerning age assessment (Rice and Poppleton 2010, France Terre d'Asile 2011, SCEP 2011). The initial age assessment is usually carried out upon the child's arrival or when he/she comes to the attention of the authorities (Immigration officers or local authority)(SCEP 2011). According to the UK Border Agency, 'as many asylum applicants who claim to be children do not have any definitive documentary evidence to support their

claimed age, a decision on their age needs to be made' (UK Border Agency 2011b: 4). In cases where the claimed age is doubtful a careful assessment of the applicant's age is required and based on 'all available sources of relevant information and evidence [...], since no single assessment technique, or combination of techniques, is likely to determine the applicant's age with precision'. The policy to be applied is that, 'where there is little or no evidence to support the applicant's claimed age and their claim to be a child is doubted, [...] the applicant should be treated as an adult if their physical appearance / demeanour *very strongly suggests that they are significantly over 18 years of age*' (UK Border Agency 2011b: 4, *author's emphasis*).

A high proportion of those claiming to be children have had their age disputed, and this has raised concerns. This happens in spite of the aforementioned official policy which gives the child the benefit of the doubt: in fact, age assessments are carried out by social workers, where possible 'on-site' (e.g. at ports, airports or asylum application units), and even when separated children's documents are suspected to be fake and/or not valid, other approaches (e.g. gathering documentary evidence through diplomatic channels) are seldom attempted (Bhabha and Finch 2006; Crawley 2007; Rice and Poppleton 2010; France Terre d'Asile 2011; SCEP 2011).

The UK Border Agency's policy for age disputes is to accept a 'Merton compliant age assessment' (Rice and Poppleton 2010). This assessment follows the approach outlined by the courts in a judgment called *R&B v London borough of Merton*, 2003, EWHC 1689 (Admin). A decision is considered to be 'compliant with the Merton criteria' when it includes an assessment of the person's physical appearance, social development, reported experiences and background (family and educational history, recent activities). In addition, it is carried out by two specially trained social workers, under conditions

¹⁹ The General Comment of the Committee on the Rights of the Child is available at: <http://www2.ohchr.org/english/bodies/crc/comment6.htm> (accessed December 2011).

that guarantee a fair decision (Rice and Poppleton 2010; France Terre d'Asile 2011; UK Border Agency 2011b). The decision of the social workers is generally accepted by the UK Border Agency (Rice and Poppleton 2010; France Terre d'Asile 2011).

It has been widely reported that even if pending age assessment the individual must be presumed to be a child and treated as such, some children are treated as 'age disputed' cases 'living in a limbo situation for months' (SCEP 2011: 26). Depending on the decision taken by local authorities, they may be placed in children care facilities or placed together with adults (Coles and Farthing 2010; SCEP 2011). More worryingly, the involvement of social workers in the age assessment procedure may lead to a potential conflict of interests, in that the local authorities are financially responsible for the child's care and placement²⁰ (France Terre d'Asile 2011).

A number of reports and researches have emphasised that the assessment methods vary and that information is not routinely provided in a language that the child can understand and in a culturally appropriate and age sensitive way. In addition, their informed consent is only seldomly gained. Another issue is that even though the child has a right to be assisted by a legal representative, an independent guardian is not appointed to represent and assist him/her throughout the procedure. Furthermore, professionals undertaking the assessment are seldom familiar with the child's cultural and environmental background, rarely trained to conduct the assessment effectively and they may focus disproportionately on the credibility of the applicant's account without taking full consideration of the physical and

²⁰ It is worth highlighting that, since a Supreme Court judgement made in November 2009, the final decision regarding a youth's age is the responsibility of the judicial authorities: if a complaint is filed against the assessment carried out by the local authority, the courts will examine the elements of the case and make a decision on the youth's age; previously if an assessment was considered illegal or inappropriate, the court asked the local authority to review its decision (France Terre d'Asile 2011).

psychological condition of the child and the impact the procedure has on him/her (Crawley 2007; Coles and Farthing 2010; SCEP 2011; France Terre d'Asile 2011). Finally, the child is not routinely informed about the possibility to appeal age assessment results and he/she is seldomly provided with adequate assistance to do so (SCEP 2011; France Terre d'Asile 2011).

Data and statistics on age assessment cases in the United Kingdom are limited:²¹ the official statistics released by the Home Office on an annual basis include the number of individuals whose age has been disputed, 'but do not include the resolution of such disputes or how many are immediately treated as adults based on physical appearance in the view of immigration officers' (SCEP 2011: 26). As highlighted by Coles and Farthing (2010), 'in practice the system of age determinations has led to a number of vulnerable children being incorrectly assessed as adults - leading them to be detained, provided with inadequate support and forcibly removed' (Coles and Farthing 2010: 15).

Similarly, in Italy there are no comprehensive and specific laws (except within criminal justice proceedings) and procedures regarding when and how the age assessment of separated children must be carried out (Rozzi 2008; SCEP 2011). Some provisions are included in different immigration and asylum acts, both legal and administrative, while a specific regulation on age assessment has been issued by the Ministry of Interior

²¹ On 24 February 2011 the UK Border Agency published a Consultation about proposals to revise the current format and content of the immigration statistics. Specific future changes planned include improving the data quality of the data on Unaccompanied Asylum Seeking Children and age disputed cases to ensure that those whose age-dispute case has been fully resolved are counted correctly. The Consultation document can be viewed at <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/immigration-asylum-research/immigration-consultation-2011?view=Standard&pubID=86786> (accessed December 2011).

(memorandum of 9 July 2007). Upon request of the Ministry of Interior, in 2009 the Ministry of Health issued a set of standard procedures to be followed in assessing the age of separated children, although such procedures have not been legally adopted so far (SCEP 2011). The Ministry of Interior's memorandum of 9 July 2007 provides that 'the benefit of the doubt' principle must be applied to all separated children (also those children who are not under criminal procedure) and that those whose age is uncertain must be treated as children until the final resolution (Rozzi 2008).

It has been widely reported that practices vary significantly, often not complying with the recommendations included in the General Comment of the United Nations Committee for the Rights of the Child on this matter (Rozzi 2008; Save the Children 2009a; Furia and Gallizia 2011; France Terre d'Asile 2011). Age assessment procedures are usually initiated by law enforcement and judicial authorities, also upon request of the local authorities or professionals of child care facilities, when there is the suspicion that an individual who claims to be a child might be aged eighteen years or over, and has identity documents reputed to be fake and/or not valid (SCEP 2011). More worryingly, while there is no data on age assessment cases, in some areas of the country the age assessment procedure is resorted to as a routine practice, it is carried out at the very first stage (upon arrival, during the first contact, or within the first 24 hours) and other approaches for age determination are seldom attempted (Furia and Gallizia 2011; SCEP 2011).

The age determination is usually carried out by professionals who are seldom adequately trained and familiar with the child's cultural and environmental background (Rozzi 2008; SCEP 2011). The assessment mainly focuses on physical factors (carpal x-ray, dental observation, sexual maturity assessment, physical development assessment by a paediatrician). The margin of error is rarely

indicated and in most cases the psychological, cognitive and behavioural aspects are not assessed (Rozzi 2008; France Terre d'Asile 2011; SCEP 2011). Information is rarely provided to children in a language that they can understand and in an age-appropriate and culturally-sensitive manner. The children's informed consent is only seldomly gained and they are very rarely assisted by a cultural mediator/interpreter or assisted at all during the procedure (Rozzi 2008; Save the Children 2009a; Furia and Gallizia 2011; France Terre d'Asile 2011).

As age assessment results are not usually made through a formal decision, the possibilities for children to lodge an appeal are very limited and they are usually not informed about them or provided with adequate support to do so (SCEP 2011). Moreover, pending age assessment, the children are often not treated as minors, a guardian is not appointed and they may be placed in adult facilities or not provided with any accommodation (Rozzi 2008; France Terre d'Asile 2011; SCEP 2011).

The lack of an independent guardian

The United Nations Convention on the Rights of the Child, the Stockholm Programme²², the European Union Action Plan on unaccompanied minors²³, several European Union and the Council of Europe provisions and documents state that the guardianship and legal representation of a child are of crucial importance for separated children to fully access their rights and for the adequate promotion and protection of their well-being and best interests. As highlighted by the findings of *Closing a Protection Gap: core standards for guardians of separated children in*

²² Council of the European Union, *Stockholm Programme: An Open and Secure European Union and Third Countries*, document 17024/09, Brussels, December 2009.

²³ European Commission, *Communication from the Commission to the European Parliament and the Council, EU Action Plan on Unaccompanied Minors*, COM(2010)213final, Brussels, May 2010.

*Europe Daphne III Project*²⁴, which involved separated children and guardians from eight European countries, proper guardianship systems are essential in identifying a durable and proper solution for separated children and in promoting their participation and the respect for their identity .

Besides being the legal representative of the child, an adequately trained and supported guardian should develop a personal relationship with the child. A guardian should play a crucial role in the following: sharing information with the child, voicing their needs and views, promoting respect for their identity. In addition, the guardian is crucial for protecting their safety and supporting their development, participation and autonomy, while promoting cooperation and monitoring of action of all the actors involved in their care (Turri 2005; Furia Gallizia 2011; Defence for Children International–ECPAT the Netherlands 2011).

In order to effectively support the child in their first contact with the new context, a guardian should be immediately appointed when ‘a separated child is identified or where an individual claims to be a separated child, regardless of whether further assessment of their age is required by the authorities’ (SCEP 2010: 23).

²⁴ The Closing a Protection Gap project, co-funded by the European Union Daphne III Programme, was realised in 2010 and 2011 in eight European countries (the Netherlands, Italy, Belgium, Ireland, Sweden, Denmark, Slovenia and Germany) with the aim of improving the situation and development chances of separated children by means of closing a protection gap for separated children through the development of a set of Core Standards for the qualifications of guardians based on the views of separated children in relation to their rights and needs. The coordinator of the project was Defence for Children-ECPAT the Netherlands and the partners of project were: Plate-form Mineurs en exil – Service Droit des Jeunes: Belgium, Save the Children-Sweden, Defence for Children International-Italy, Save the Children-Denmark, Slovene Philanthropy: Slovenia, Refugee Council Ireland, Bundesfachverband UMF – Germany. For more details on the project outputs and results, see: <http://www.defenceforchildren.nl/p/43/522/mo89-mc97/english>.

Guardians should also have relevant childcare expertise and specialist skills, in particular an understanding of child migration issues through on-going training and professional support, and undergo police or other appropriate reference checks (SCEP 2010). More importantly, guardians should not hold positions which could lead to a potential conflict of interest with the best interests of the child (SCEP 2010; Furia and Gallizia 2011). Their role should be recognised and they should have the authority to represent the child in all planning and decision-making processes (SCEP 2010; Defence for Children International-ECPAT the Netherlands 2011).

In the United Kingdom there is no guardianship system. Even if the United Nations Committee on the Rights of the Child (2008) and a number of stakeholders and non-governmental organisations recommend that the United Kingdom should introduce a system of guardianship for separated children, also stated in Article 19 of the European Union Reception Conditions Directive which requires Member States to ensure the legal representation of separated children, the government states that ‘it is satisfied that the care and support unaccompanied children receive from local authorities, under the same statutory arrangements as other children in need, means that the UK is fully compliant with the Directive’ (Rice and Poppleton 2010: 38).

In the United Kingdom a separated child has access to legal aid and assistance with the asylum application and a ‘responsible’ adult must be present during the child’s interviews. The duty of a legal representative is to promote the child’s legal interests and to act on the basis of the child’s instructions but not to develop a caring or protective relationship with them (Bhabha and Finch 2006). On the other hand, the ‘responsible’ adults have no power to legally represent the child and speak in the child’s name; their attendance is limited to the interviews procedure and they may be chosen on the basis of very broad criteria (France Terre d’Asile 2011).

As emphasised by France Terre d'Asile, the asylum procedure in the United Kingdom provides for an 'accompaniment system rather than any true legal representation' and 'this is a significant shortcoming in the day-to-day life of the unaccompanied minors, and in all of the administrative and legal procedures with which they will be confronted. They will indeed have various contacts, but no true referent who will be able to ensure their well-being and the respect of their rights' (France Terre d'Asile 2011: 100). It is nevertheless worth underlining that a guardianship service for separated children has been recently launched in Scotland.²⁵

In the Italian context guardianship is enforced with a judiciary measure and it is carried out under the judiciary system's supervision and monitoring (Furia and Gallizia 2011). Upon notification of the local authorities and/or reception facilities, a guardian is appointed by the Tutelary Judge of the jurisdiction where the child resides. There are no specific provisions for the appointment of a guardian for separated children who are not asylum-seekers and the general laws on guardianship are applied in this case (Articles 343 to 389 of the Civil Code and law 184/1983, as modified by law 149/2001) (Furia and Gallizia 2011). With regard to separated asylum-seeking children, the directive of the Ministry of the Interior of 7 December 2006 and Article 26 of Legislative Decree 25/2008 state that, in case a separated child applies for asylum, their application is brought to the attention of the Tutelary Judge having territorial jurisdiction for the appointment of a guardian. The guardian then has to express his/her approval in order to complete the procedure for the submission of the application, while supporting and keeping the child informed throughout the asylum procedure (hearing, appeal, etc.) (Furia and Gallizia 2011).

²⁵ The Scotland Guardianship Service is promoted by the Aberlour Scotland's Children's Charity. For more details please see: <http://www.aberlour.org.uk/scottishguardianshipservice.aspx>. I am grateful to Terry Smith for drawing my attention to this initiative.

Despite the legal provisions regulating guardianship, separated children's right to have a guardian is not always adequately upheld in Italy. In many Italian cities the appointment of a guardian may take up to several months, with all the subsequent legal problems, and sometimes a guardian may not be appointed at all (Rozzi 2008; Furia and Gallizia 2011). The level of protection and care separated children receive from their guardians depends upon the Region and/or the city responsible for them, and on the single guardian's non-standardised level of competences and skills (Furia and Gallizia 2011). In addition, at times guardians may not be recognised in their role and authority and not involved in all planning and decision-making processes concerning the child (Furia and Gallizia 2011).

In some Regions and cities of Italy training courses on guardianship for volunteers are promoted and trained volunteers can be appointed as guardians,²⁶ while in many cases a representative of the local authority (e.g. the Mayor of the municipality or the Social Services head officer) is appointed as guardian for all of the separated children residing in the relevant territory. This may lead to problems of conflicting interests (financial interest in reducing the number of separated children), lack of external monitoring and independence, and can hardly ensure, due to the large number of children, the development of a close relationship and of a bond of trust with the child (Rozzi 2008; Furia and Gallizia 2011).

²⁶ In 2001, the Veneto Region instituted a Guardians Project, including training courses for volunteers, ongoing training and professional support and a Register of Volunteer Guardians run by the Region's Public Guardian for minors, in cooperation with the regional and local institutions and judicial authorities. This project has become a best practice and model for other institutions in Italy. Another best practice is the Cultural Guardians Project promoted by the Dedalus Social Cooperative and the municipality of Naples in 2007, with the aim of training cultural mediators to be appointed as guardians of separated children. For more details, Furia and Gallizia (2011).

Invisible children

Reliable data are necessary to ensure that separated children are provided with adequate measures, services and an assessment of their needs. Although periodical data and statistics on separated (asylum-seeking) children have become more accurate (from 2004 including also the number of age disputed applications) and are regularly published²⁷ in the United Kingdom, the broader number of children in the country who are subject to immigration control is not known and extremely difficult to estimate.

According to Section 115(9)(a) of the Immigration and Asylum Act 1999 'a child who is not a European Economic Area (EEA) national and who requires leave to enter or remain in the United Kingdom – but does not have it – is a child who is subject to immigration control' (Brownlees and Finch 2010: 4). As pointed out by Crawley: 'It is widely believed that the number of children in this category has increased over recent years as a result of accelerating

international mobility, ongoing and new international conflicts, and changes to asylum and immigration law which effectively place increasing numbers of people already in the UK liable to immigration control' (Crawley 2006: 10).

There are various circumstances where children and young people may be subject to immigration control. These circumstances include the following: separated children seeking leave to remain or challenging their removal, children brought to the United Kingdom for adoption and abandoned when the adoption order is refused or the arrangement failed, children living in private fostering arrangements, of which the relevant local authority is not aware, children victims of trafficking and exploitation or children who may have overstayed their leave to remain (Crawley 2006; Brownlees and Finch 2010).

Obtaining statistics related to the number of children with irregular immigration status and/or in need of protection is extremely difficult even if, according to some practitioners, 'numbers of unaccompanied or separated migrant children who are not known to the authorities could be in the thousands, and are likely to be more numerous than those unaccompanied or separated migrant children who are known to the authorities and who are seeking asylum' (Brownlees and Finch 2010: 23).

Various institutions in Italy are entrusted with the collection of data concerning separated children, using a not-so-standardised and comparable methodology. Moreover, as emphasised many times by the United Nations Committee on the Rights of the Child in its periodical reports, the coordination between the various governmental entities involved in data collection, as well as between national, regional and municipal levels, is insufficient and there is a need for a comprehensive network for the collection of data taking into account all groups of children within Italy.

While some steps have been taken to ensure greater capacity and uniformity in

²⁷ According to the latest Asylum Data Tables published by the Home Office, covering July-September 2011, the number of applications from separated children, excluding dependants, was 34% lower in the third quarter of 2011 (285) compared with the same period of 2010 (432). The number of applications from separated children corresponds to 6% of the total of asylum applications made in the United Kingdom in this period, while in 2010, 10% (1,717) of applicants were separated children. Afghanistan remains the country of origin for the largest number of children (30.5% of all applications in the third quarter of 2011), followed by Eritrea (12.6%) and Iran (11.9%), but the number of applications from Afghanistan is significantly lower than in 2008 and 2009. Until September 2011 around 84% of child applicants were male, a similar percentage to earlier years. As in 2010 the age of 20% of the total was unknown, 46% were in the 16-to-17 age bracket (48% in 2010) and 33.1% were under 15 (31.5% in 2010). As in the earlier years, most applications were made by children already in the country – around 90% of applications – rather than children arriving at a port (Home Office 2011). For more details, see <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/immigration-asylum-research/immigration-tabs-q3-2011/asylum2-q3-11-tabs> (accessed December 2011).

data collection on separated non-asylum-seeking children at national level, such as the improvement of the national data collection system run by the Committee for Foreign Minors,²⁸ the United Nations Committee on the Rights of the Child has also recently repeated its concern for the significant discrepancies in the capacity and effectiveness of regional data collection mechanisms and for the limited data available on refugee and asylum-seeking children in Italy (Committee on the Rights of the Child 2011). Despite the seriousness of the concern, also expressed by national and international organisations, recently the Ministry of Interior has made available comprehensive statistics on asylum in which no age-disaggregated data are provided.²⁹

Besides being extremely limited, the available data should also be considered

²⁸ According to the inflow data collected by the Committee for Foreign Minors, from January to September 2011, 3,707 separated children entered the country. The vast majority of children were male (98.5%), 85.4% of the total was in the 16-to-17 age bracket and 14.6% was under 15. Tunisia is the country of origin for the largest number of separated children (36% of the total), followed by Egypt (13.7%) and Mali (9.3%). A significant component of children is actually missing (734, equal to 19.8%), whereas 165 children (4.5%) have changed their legal condition by becoming asylum-seeking or accompanied, but no detailed data are provided. Inflow data concerning 2009 and 2010 are not available, incomplete or not comparable enough, even if it has been highlighted that, before the so-called North African Emergency, the number of separated children had substantially fallen after a peak in 2008 (2,124), due to the implementation of tougher immigration policies and stricter border control to combat 'illegal' immigration in 2009. For more details see: http://www.lavoro.gov.it/Lavoro/md/AreaSociale/Immigrazione/minori_stranieri/Minori_stranieri_non_accompagnati.htm (accessed December 2011).

²⁹ Although incomplete, some data can be found in Eurostat statistics according to which, during the first quarter of 2011 Italy, along with Germany, recorded the highest increase in number of asylum applicants (3,985), that was 47% higher compared to the same period of 2010 (2,720). In the same period, 283 applications were submitted by children (7.1% of the total). Available at: http://epp.eurostat.ec.europa.eu/portal/page/portal/product_details/publication?p_product_code=KS-SF-11-048 (accessed December 2011).

with caution as it does not include separated children who are European Union nationals,³⁰ who until recently represented the majority of the separated children reported in Italy (approximately one-third of the total since 2004) (Rozzi 2008). Furthermore, they do not take into account separated children who may not come into contact with the immigration authorities and/or who are victims of trafficking and exploitation (Rozzi 2008).

Conclusion

The examples above demonstrate that currently the creation and implementation of migration policies are aimed at deterring and controlling migration. These are mainly based on criminalising and victimising discourses which not only affect the level of support available to separated children, but also hinder the framing and effective implementation of a comprehensive strategy of prevention and response to the vulnerability of separated children.

More worryingly, the above-analysed policies, measures and practices, even if embedded in a legislative framework based on the assumption that particular care and priority should be given to migrant children's needs, rights and condition of potential vulnerability, make the vulnerability of separated children, as well as their criminalisation and victimisation, a set of 'prophesies' that are very likely to become self-fulfilling.

In this context, representations of separated children oscillate between portraying children as traumatised and distressed 'victims' or as suspicious, manipulators or manipulated by adults, potential 'criminals'. Little space is left to their consideration as rights holders, to the

³⁰ It is worth underlining that in 2007, basing on an agreement between the Italian and Romanian Government, a specific Central Body for the protection of EU unaccompanied minors (called 'Organismo Centrale di Raccordo per la tutela dei minori stranieri non accompagnati') has been established at the Ministry of the Interior but no data has been made available so far.

assessment of positive aspects of child migration (O'Connell Davidson and Farrow 2007), or to the promotion and enhancement of every single child's identity, capacities, social inclusion and participation.

From this perspective, some of the main causes of the lack of consistency and compliance with children's rights principles and standards, and the lack of effectiveness showed by European states in dealing with separated children can perhaps be found in some crucial questions raised by Bhabha (2007):

Why should this be so? Is it because they pose a trying challenge to established, orderly administrative systems, rather like street children in Rio de Janeiro or Guatemala City, who have been extra-judicially shot by law enforcement officers? Or is it because their vulnerability and marginality suggest little accountability or follow-up to abuse? Or is it because these children's youth is discounted because they are assumed to be 'other' than 'our children', hardened and prematurely matured by their life experiences? (Bhabha 2007: 209).

As pointed out by Bhabha's series of questions, what makes separated children a special case for critical analysis is that, on the one hand, being children, they challenge the Western conception of childhood based on the assumption that the normal state of child life is 'stability' and that children are inherently dependent and *per se* vulnerable (Fass 2005; Mai 2011; Costella, Furia and Lanti 2011). This puts into question the political, social and cultural perspectives and measures that are developed to assess and address their needs. On the other hand, being migrants, they illustrate that the Western governments' commitment to the promotion of children's rights and to the prevention of and response to their vulnerability is very often pure rhetoric, and that the current immigration laws, policies and practices are not only ambivalent, exclusionary and hostile, but also they are

very likely to produce and/or worsen forms of vulnerability.

Therefore, while there is an urgent need for a more consistent and holistic approach to child migration issues, the current research and policy emphasis on the vulnerability of separated children needs to be based on further research and policy discussion that focuses both on the impact of immigration laws and policies on separated children's vulnerability; and also, most importantly, on the narratives underpinning and legitimising national immigration regimes.

Otherwise, it will remain ambiguous, ineffective and counterproductive.

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