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Title	Advocating and Setting Agendas: An Exploratory Study of NGO Advocacy surrounding the Reception Conditions of Asylum Seeking Children and Families in Ireland and its Influence on Agenda Setting
Author(s)	Kinlen, Louise
Publication Date	2013-03-20
Item record	<a href="http://hdl.handle.net/10379/3704">http://hdl.handle.net/10379/3704</a>

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**Advocating and Setting Agendas: An Exploratory Study of NGO  
Advocacy surrounding the Reception Conditions of Asylum Seeking  
Children and Families in Ireland and its Influence on Agenda Setting**

A thesis submitted for the Degree of PhD. to the National University of  
Ireland, Galway

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**March 2013**

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## **List of Abbreviations and Acronyms**

<b>ACF</b>	Advocacy Coalition Framework
<b>CERD</b>	Committee on the Elimination of Racial Discrimination
<b>DCYA</b>	Department of Children and Youth Affairs
<b>DP</b>	Direct Provision (system of accommodation for asylum seekers)
<b>ECHR</b>	European Convention on Human Rights
<b>ECtHR</b>	European Court of Human Rights
<b>ECRE</b>	European Council on Refugees and Exiles
<b>FLAC</b>	Free Legal Advice Centres
<b>HSE</b>	Health Services Executive
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>IRC</b>	Irish Refugee Council
<b>IRP Bill</b>	Immigration, Residence and Protection Bill
<b>NGO</b>	Non-Governmental Organisation
<b>ORAC</b>	Office of the Refugee Applications Commissioner
<b>PQ</b>	Parliamentary Question
<b>RIA</b>	Reception and Integration Agency
<b>TD</b>	Teachta Dála, Irish word for member of parliament
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UNCRC</b>	United Nations Convention on the Rights of the Child
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UPR</b>	Universal Periodic Review

## **Abstract**

Asylum seekers arriving in Ireland are accommodated under a system known as Direct Provision and Dispersal. Under this policy families may spend seven years or more in communal hostel accommodation, with meals provided and small weekly allowances. Asylum seekers are not permitted to work and personal autonomy is limited. Concerns have been raised since its inception in 2000 by NGOs, academics, health professionals and the international community. These have included human rights and humanitarian issues such as overcrowding, malnutrition, mental and physical health, poverty, social exclusion, lack of play and study space, child protection and parenting challenges. NGOs have been to the fore in advocating for policy change in this area, with some lobbying and campaigning for change for over a decade. Several national and regional NGOs have formed coalitions and are attempting to influence policy makers, with a stronger focus now placed on elected politicians as opposed to civil servants. This thesis seeks to explore such advocacy, focusing on how it is received at state level and how the NGOs attempt to put their concerns on the public policy agenda.

A constructionist research design was used in addressing this central research question, incorporating a case study approach, giving voice to the various actors in the process. In addition to some initial surveying of NGOs, in-depth interviews were undertaken with NGO advocates, senior civil servants, politicians, funders and observers. The research was influenced by a theoretical framework, based around the concept of agenda setting (Kingdon 1995), and informed by the literature on advocacy and theories on the challenges of pro-asylum advocacy. The research highlighted that whilst some windows of opportunity have opened for advocates to place their concerns on the public agenda, they have not stayed open for long and their attempts at overall policy reform have not been very successful. Challenges have included a divergence of worldviews between advocates and some state actors who may be opposed to or indifferent to their concerns and view the role of the State vis-à-vis asylum seekers very differently. The research also proposes a revised framework (based on the multiple streams model of agenda setting) for understanding the intersection between advocacy and agenda setting in the policy making process.

## **Acknowledgements**

This thesis would never have been completed without the encouragement, support and assistance of so many individuals. I would like to thank my supervisor Professor Chris Curtin for his support, focus and ability to see the bigger picture. I would also like to thank the members of the Graduate Review Committee Dr. Ciara Smyth and Dr. Celia Keenaghan for their expert advice and input.

Special thanks are also due to everyone in the Child and Family Research Centre where I have been based. Dr. John Canavan and Professor Pat Dolan have been very supportive throughout. I would like to thank everyone for the peer support, especially in the PhD corner. A big thank you also to Leanne and Jessica for their encouragement and listening ears. Liam provided great assistance, particularly in the beginning in the search for ‘policy models’ and introduced me to the work of Kingdon. I need to say a special word to all those who have assisted with proof-reading of chapters: My parents, Philip, Leanne, Jessica and Benjamin. I would also like to thank Rosie Dunne, research librarian for all the assistance with EndNote.

This study would not have been possible without all the individuals and organisations that participated so willingly in the research. They are the ones that really brought the study to light. Their insights and candid accounts were a huge assistance, as well as all the additional reading material and support they provided.

On a personal level I received help and encouragement from so many people. Special friends who have helped me through this process include Aileen, Elaine, Geraldine, Helen and Karen. My family have kept me grounded and encouraged me along the way. A very special thank you is due to Lorraine who has kept everyone happy at home. I most especially want to say thank Benjamin, Abigail, Antoine and Samuel for their love, kindness and patience, whilst I was busy writing my ‘big book’.





# **Chapter One:**

## **Introduction**

### **1.1 Overview and context**

#### ***1.1.1 Overview***

Migration patterns in Ireland underwent significant changes during the 1990s when there was a large increase in the number of people migrating to Ireland. For the first time in recent history, inward migration exceeded outward migration, leading to a shift from a country defined as nation of emigration to one of immigration. Ireland was placed on the international map and began to open up. At the same time, the number of people seeking asylum in Ireland began to increase. Whilst sensationalist media headlines during the late 1990s spoke in terms of ‘hordes’ and an ‘influx’ or ‘deluge’ of asylum seekers arriving, throughout the 1990s, they still represented a small and declining percentage of total migrants to Ireland (Fanning and Mutwarasibo, 2007).

Prior to the 1990s, the numbers of people arriving in Ireland to seek asylum was very low, with most of the refugee arrivals coming through organised refugee programmes. Unlike other countries, which took in large numbers of refugees following World War II, Ireland accepted very few refugees at this time. It acceded to the Geneva Convention on the Status of Refugees in 1956 and in the same year accepted 539 Hungarian refugees who had fled following the failed uprising. This was followed by a small groups of Chilean refugees in 1973, 212 Vietnamese refugees in 1979 and 455 Bosnian programme refugees from 1992-1998. For most of these refugees, the supports they received were very minimal, with little English language and other educational or integration supports (Prutz Phiri, 2003). Ireland in the past did not have an established tradition of being a receiving country for asylum seekers or refugees in comparison with other European countries. This was partly due to geographic, political and economic isolation and the fact that Ireland was a small island and not traditionally an access point for people fleeing conflict.

In the 1990s Ireland began to experience a new phenomenon of larger numbers of people arriving spontaneously in the country to seek asylum, leading to a peak in 2003 and declining ever since. In 1992, only 39 people arrived spontaneously to seek asylum in Ireland, which then rose dramatically and peaked at over 11,000 applicants in 2002. Since

2003, there has been a steady decrease in the numbers seeking asylum, with current levels similar to those in 1996 (RIA, 2012a).

The mid to late 1990s proved to be a difficult time for the Irish State as it struggled with establishing a system for processing asylum applications, and receiving and housing asylum seekers arriving on its shores. Asylum policy and legislation developed in a relatively piecemeal fashion, with reception policy for asylum seekers evolving as what was considered a response to a crisis situation. The reception conditions of asylum seekers, coupled with the long periods they spend awaiting a decision on their claim have given rise to a wide range of concerns, which have been well documented. Among others, Non-Governmental Organisations (NGOs) have been to the fore in criticising the existence and operation of Irish reception policy and over the last decade have developed a series of advocacy campaigns and strategies to seek policy change in this area.

Those who seek asylum in Ireland are accommodated under a system known as Direct Provision, which has been in operation for over twelve years. Under this policy, asylum seekers are required to reside in communal hostel accommodation, with some families spending over seven years in such a system. NGOs spend considerable time and effort advocating for the reform or abolition of Direct Provision (ultimate policy goal), yet it is a domain that has largely disappeared from the public agenda and media in comparison with the headlines at the time of its introduction. Politicians still refer to it occasionally in Dáil<sup>1</sup> debates, but no large-scale debate on the policy itself has taken place during this period. Twelve years on however, NGOs continue to advocate strongly and have developed and refined their strategies over time, with more emphasis on politicians and less on civil servants. Philanthropic organisations also continue to fund advocates to do so, and it is presumed that both the funders and advocates believe that such advocacy has some influence on policy or some future potential to do so.

Whilst the system, its short-comings and potential impacts have been well documented by academics, by NGOs, by professionals and by the international community, little is known about the influence of NGO advocacy attempting to highlight the issue on the public policy agenda. This study explores the process whereby NGO advocates use advocacy as a means of putting their issues on the public agenda. It looks at what they do, why they choose particular strategies and how the state reacts to such advocacy. It has a

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<sup>1</sup> Irish word for the parliament, the lower house of the legislature.

particular focus on the early stages of policy making and how advocacy is part of the process of NGOs attempting to place their concerns on the government agenda (agenda setting). Drawing on literature on agenda setting, advocacy and the asylum/immigration domain, a framework for analysis is developed and applied.

### ***1.1.2 Background***

Ireland prides itself in its commitment to human rights on both a global and domestic scale. It is a signatory to most major international human rights instruments, and as a signatory to the Geneva Convention, has committed to provide international protection to those fleeing persecution. It is also one of a few European countries that participates in the UNHCR administered resettlement programme, whereby refugees from across the world are resettled by participating countries. Whilst Ireland receives a small number of refugees each year through its resettlement programme<sup>2</sup>, there was a large increase in the numbers seeking asylum during the late 1990s, peaking in 2003. Those who arrive independently to seek asylum in Ireland are treated under a separate process. Whilst awaiting an outcome on their claim,<sup>3</sup> they are housed in communal accommodation in various towns and villages throughout Ireland. Asylum seekers were initially allowed to reside in independent accommodation, but under the Direct Provision and Dispersal Scheme<sup>4</sup>, introduced in 2000 are now obliged to live in hostel accommodation, with no choice in its location. They are also precluded from working or taking part in further education and can spend up to seven years or more in these conditions.

The scheme commonly referred to as Direct Provision has given rise to a large number of concerns on humanitarian and human rights grounds. There are currently 1789 children living in Direct Provision accommodation, with some living there for periods of seven years or more (RIA, 2012a). Children who live in Direct Provision are not separated children, but reside with one or two of their parents who are seeking asylum. In some cases such children arrived with their parents or they may have been born in Ireland. The parents may be making a claim on behalf of the children for asylum, or if born in Ireland,

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<sup>2</sup> Ireland has a quota of 200 resettled refugees per annum, but has not met this quota every year. See Office of the Promotion for Migrant Integration (2011) 'Resettlement Programme: Introduction', [online], available: <http://www.integration.ie/website/omi/omiwebv6.nsf/page/resettlement-intro-en> [accessed 06/12/12].

<sup>3</sup> Asylum seekers is the generic term used in this study to refer to those who have applied for asylum, but also includes those in the process who may have been refused at first instance and are applying for subsidiary protection or leave to remain on humanitarian grounds. Until a person is refused and deported or granted a positive decision, they are expected to reside within Direct Provision accommodation.

<sup>4</sup> Referred throughout this thesis as Direct Provision, which is the phrase in common usage.

they are not asylum seekers and may qualify for Irish citizenship. Adult asylum seekers are precluded from working or taking part in further education and meagre weekly allowances are provided.<sup>5</sup> A recent report of the Irish Refugee Council on state sanctioned child poverty and exclusion concluded that ‘Direct Provision is an example of a government policy which has not only bred discrimination, social exclusion, enforced poverty and neglect, but has placed children at a real risk’ (Arnold, 2012, p7). The concerns raised by this organisation and others are multi-fold and include *inter alia* material deprivation and poverty, lack of autonomy, overcrowding, malnutrition and other dietary concerns, mental health issues, exposure of children to inappropriate influences, lack of space for play, recreation, privacy or to socialise with non-residents, parenting challenges, isolation, boredom, severe social exclusion and difficulties relating to non-voluntary transfers (Arnold, 2012, Uchechukwu Ogbu, 2011, FLAC, 2009, Doras Luimni, 2011).

Child protection and welfare, and the strengthening of children’s rights are topical issues in Ireland as it comes to terms with a dark legacy of child neglect and abuse at the hands of the State, institutions and wider society. Reports such as Ryan on abuse within state institutions (Commission to Inquire into Child Abuse, 2009), or on clerical child abuse (Commission of Investigation, 2009) (Commission of Investigation, 2010), or the recent report into child deaths in State care (Shannon and Gibbons, 2012), paint a very grim picture of the way in which children have been valued up until very recently. The Irish Government recognised its shortcomings in relation to the protection of children in Ireland and after many years of deliberation, introduced a referendum to provide for the protection of children’s rights in the Constitution, which was passed by a small majority on November 10<sup>th</sup> 2012. In announcing the date of the referendum, the Minister for Children and Youth Affairs Frances Fitzgerald T.D. stated:

*This referendum is the clearest statement the nation can make that that legacy is being left behind. This referendum will change the Constitution so it: Protects children; supports families and treats all children equally* (Government of Ireland, 2012b).

This commitment to treating *all* children equally has been challenged by a range of Non-Governmental Organisations (NGOs) who have campaigned for over a decade for the

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<sup>5</sup> They are €19.10 per week per adult and €9.60 per child, which have not changed since their introduction in 2000 and asylum seekers are not subject to poverty proofing under national assessments.

eradication and reform of the system of Dispersal and Direct Provision on a wide range of grounds; including its unduly negative impact on children. Numerous reports, studies and submissions have been made on the issue, including criticism by some international human rights monitoring bodies (Commissioner for Human Rights, 2008, UNHRC, 2011).

This thesis is concerned with such advocacy, which has been vigorously pursued by NGOs who are committed to ensuring justice, equality and the protection of human rights. On closer examination of public policy however, there appears to have been little change in the last decade and in line with other some other EU countries, a strengthening of controls and deterrence-based approaches have emerged. This dichotomy between pro-asylum advocates and policy makers pushing for tighter controls and uncomfortable living conditions can be difficult to reconcile. The NGO advocates are occasionally invited into, or more frequently demand the right to participate in the fringes of the policy making process. Within such spaces where advocates and policy makers intersect, the divergent worldviews sometimes collide and those with views diametrically opposed to official thinking may find themselves left further on the margins. This thesis posits that NGOs in their attempts to influence policy are seeking to put their issues on the public agenda and thus to be involved in the process of agenda setting. The study concentrates on this intersection of NGO advocacy and agenda setting. It is based on a framework devised from the three perspectives of the generic literature on advocacy (Onyx et al., 2010, Keenan and Montague, 2010, Quinn Patton, 2008, Andrews and Edwards, 2004); policy analysis, concentrating on agenda setting (Kingdon, 1995, Baumgartner and Jones, 2009); and the particular challenges associated with advocacy in the domain of asylum policy (Hintjens et al., 2011, Bhabha, 2002, Lentin, 2007).

Whilst many studies have focused on Direct Provision and its often negative consequences, little is known about the influence of advocacy in this area and how it intersects with the policy making process. My own interest in seeking to understand this process stemmed from previous work I undertook both for the voluntary and statutory sectors in relation to asylum seekers and refugees, in which a strong dichotomy emerged between official policy making and implementation on the one hand, and the voices of advocates in the NGO sector constantly challenging and seeking policy change. This led me to question why such divergence existed between the two and why advocates

continued to seek policy change and place their issues on the agenda in the absence of clear indications that they were being listened to or their voices being taken seriously within official discourse.

This chapter introduces the thesis though providing a rationale for the study and the primary research question in **Section 1.2**. The parameters and location of the study are outlined in **Section 1.3**. Various theories and concepts inform the research, which are summarized briefly in **Section 1.4**, followed by the approach to the study in **Section 1.5**. **Section 1.6** introduces the key limitations and challenges of the study. The overall structure of the thesis is delineated in **Section 1.7**.

## **1.2 Rationale and research question**

### ***1.2.1 Rationale for the study***

Asylum seeking children (or the children of adult asylum seekers) are a particularly vulnerable group of children, partly stemming from the ambivalence and confusion that surrounds their political and legal identities. Vitus and Liden (2010, p63) have summarised their situation as:

*It questions otherwise hegemonic definitions of children and childhood, potentially creating situations when a child is not a child and often leads to situations in which asylum seeking children have political and juridical rights, possibilities, obligations and limitations different from other children.*

Ireland, like almost all countries worldwide<sup>6</sup> has adopted the UN Convention on the Rights of the Child (CRC)<sup>7</sup>, a universally recognised instrument that grants a number of fundamental human rights to children and has committed to enshrining children's rights through a constitutional referendum. During September 2012, commitments were made by the Government on the one hand to strengthen rights for all children through the announcement of a date for the Referendum on strengthening children's rights in the constitution (Government of Ireland, 2012b), whilst the Irish Refugee Council<sup>8</sup> launched a report detailing the widespread damage Direct Provision causes to children (Arnold, 2012). These serve as examples of the contradictory nature of mainstream policy and legislation on the one hand that appears to value children and families; and

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<sup>6</sup> With the exceptions of the United States and Somalia.

<sup>7</sup> The Irish Government signed the UN CRC in 1990 and ratified it on 28<sup>th</sup> September 1992.

<sup>8</sup> A large Irish NGO specialising in refugee and asylum seeker issues. The Irish Refugee Council is a member of the European Council on Refugees and Exiles (ECRE).

the claims by the NGO community and some within Government that the State is not currently meeting its commitments to all children.

Despite the recognition by many that asylum seeker children enjoy lower levels of entitlements than children in general, the issue has not yet become dominant in the mainstream public policy agenda. As the quote above illustrates, the hegemony surrounding asylum seeker children is divided between their status as children on the one hand and the politicised concept of someone seeking asylum on the other. Boyden et al. (2007) claim childhood is still a notion as a life phase free from political blemish, and at least in legal terms, children are the bearers of rights that cannot be compromised by circumstance. This is borne out in human rights instruments such as the UN CRC that explicitly states that children seeking refugee status should be supported in enjoying the rights set forth in that Convention and other international human rights instruments to which that state is party. In practice however, governments struggle between balancing their responsibilities towards asylum-seeking children, with concerns about social unrest and political backlash against an asylum system considered too liberal.

Within the not-for-profit sector on the other hand, a number of local and national NGOs dealing with both refugees and asylum seekers and children's issues in general have raised a series of concerns at Government level about the treatment of asylum seekers in general or particularly children and families under the Dispersal and Direct Provision Scheme. Some early reports were launched by organisations such as the Free Legal Advice Centres (FLAC) on a review of Direct Provision (FLAC, 2003) or the Irish Refugee Council on the social exclusion of children in Direct Provision (Fanning et al., 2001). The topic has also received widespread attention from academics, with the conditions and impacts of Direct Provision featuring in a wide range of reports, articles, books and theses (see e.g. Fanning and Veale, 2004, Thornton, 2007, Breen, 2008, Lentin, 2007, Fanning and Mutwarasibo, 2007, Fraser et al., 2003, Uchechukwu Ogbu, 2011). Social workers (Burns and Christie, 2006), psychiatrists (Nwachuchwu et al., 2009), GPs (Pieper et al., 2009) and the Health Services Executive (HSE) (HSE West, 2006, Manadhar et al., 2006) have also raised a number of concerns.

In recent years specific attention was also paid to the circumstances of separated children, especially after some media and intensive NGO focus on their disappearance



from the care of the HSE. The Ombudsman for Children also took an interest in their plight and published a report on their situation (2009). In 2010 their situation changed, with many moving into foster families and other residential accommodation on a par with Irish children in care. The issue of after-care however has not been solved, with most being transferred back into the asylum process and into adult Direct Provision accommodation upon reaching the age of 18.<sup>9</sup> Research into accompanied children seeking asylum in Ireland however has been more limited, but is growing. A number of NGOs are involved in processes of public advocacy, where they have initiated campaigns to appeal to the Government and in some cases the wider public to improve the situation for asylum seekers on a variety of grounds, including its impact on children. A number of NGOs concerned with children's rights have also started to take an interest in the plight of asylum seeking children. Some of the advocacy undertaken has involved direct public campaigns, awareness-raising and publicity work ('outsider tactics'), whilst others have involved more subtle means or 'insider tactics' (Andrews et al., 2004) of lobbying, submissions and participation in decision-making fora. The publication of advocacy research has also been used as a tool for both raising public awareness and insider lobbying of Government agencies.

Despite the proliferation of organisations working in this area,<sup>10</sup> little is known about the role such organisations have been able to play, particularly in respect of raising human rights and humanitarian concerns relating to asylum seeking children through their advocacy work, what strategies they have used, why they have chosen them and how the targets of such advocacy have reacted. Little is known also about the process whereby they attempt to put their concerns on the government agenda (agenda setting).

In attempting to understand such processes, literature from three different perspectives are incorporated. Firstly, the literature on systemic advocacy provides perspectives on strategies used by advocates and how they seek to influence policy. Secondly, literature on policy-making, focusing on agenda setting and the particular framework proposed

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<sup>9</sup> Unaccompanied minor children who are then transferred into the adult asylum seeking system of Direct Provision are referred to commonly as 'aged out minors' and specific concerns have been raised in relation to this group, particularly as some have been moved to other locations during their final school year and continued support in the Direct Provision system has been minimal. See e.g. Dun Laoghaire Refugee Project and Please Let Us Stay Campaign (2006).

<sup>10</sup> Some rationalisation of NGOs working in the immigration sector took place during 2010 due to funding and other constraints, with the merger of two large national NGOs, Integrating Ireland and the Refugee Information Service, which merged to form the Integration Centre.

by Kingdon (1984, 1995) using multiple streams emerges as central in the analysis. Other policy perspectives such as policy network theories (Marsh and Smith, 2000, Marsh and Rhodes, 1992) and the Advocacy Coalition Framework (Sabatier, 1988, Adshead, 2011) provide important influences. Thirdly, this study is based on the premise that advocacy in this domain is not policy neutral, that seeking to change asylum or immigration policy carries its own particular challenges and that the processes and worldviews involved in such policy-making may differ from those in other sectors. Works that have used theories such as the state of exception (Agamben, 2005, Hintjens et al., 2011) or theories of a racial state (Goldberg, 2002) are examined in this regard.

### ***1.2.2 Research Question***

After an exploratory phase in which key literature and documentation were examined, in addition to consultations with some key NGOs, a central research question was formulated. This is summarised as:

*How do NGOs advocate in relation to the reception conditions of asylum seeking children and families in Ireland, including how such advocacy is received at state level and how the NGOs attempt to put their concerns on the government agenda?*

This overarching question can be broken down into four separate components or sub-research questions:

- 1. What do NGO advocates do in order to raise their concerns in relation to the reception conditions of asylum seeking children and families?*

This includes an exploration of NGO advocacy for children and families in the Direct Provision system, focusing on the key strategies and tactics used by such advocates and the aims of such advocacy.

- 2. Why do they choose particular strategies and have these changed over time?*

The study emphasises the accounts and interpretations of the various actors and the reasons they give for why they chose particular courses of action. The NGOs explanations in relation to why they chose various strategies and how they changed them when perceived necessary, are important.

3. *What response do they receive from the State (target of their advocacy)?*

In order to understand the role of such advocacy, it is necessary to also look at how such advocacy has been received by the targets of this advocacy, which, in this case includes various arms of the state or policy makers. In order to understand how it has been received, various structures and processes involved in such policy making are analysed, including the particularities associated with policy in the sphere of asylum and immigration. The literature on policy networks and agenda setting is useful to a certain extent in this regard.

4. *Do they have any success in putting their concerns on the public agenda (agenda setting)?*

This final component is the most challenging and potentially most unique element of the research. Unlike other studies of advocacy, this research focuses on how advocacy intersects with policy-making and particularly with agenda setting. A lens of agenda setting is applied here, using an adaptation of the multiple streams model formulated by Kingdon (1995).

In addition to addressing this research question, it is hoped that this study will contribute to our understandings of how advocacy and agenda setting intersect at conceptual and empirical levels. It is also anticipated that the study will carry some practical implications or recommendations for those involved in such advocacy and policy making.

### **1.3 Parameters and location of the study**

#### ***1.3.1 Participants in the study***

This study is based primarily on the activities of NGOs based in Ireland who are seeking a reform of policy in relation to the Direct Provision system and particularly how it impacts on families and children. It is difficult to estimate exactly how many NGOs share this goal, but various indications exist, including the seventeen organisations (mainly in the immigration sector), which have formed an alliance entitled the Forum on Direct Provision (seeking reform of Direct Provision). This does not include three national children's organisations which have also advocated for the rights and welfare of children living in the Direct Provision system. A recent report on the impact of Direct Provision on children by the Irish Refugee Council was publicly endorsed by eighteen organisations

(Arnold, 2012),<sup>11</sup> of which six are members of the Forum on Direct Provision. Whilst such organisations endorsed this study, many do not advocate directly for change in this area, but may be committed at a broader level to issues of anti-poverty, children's welfare or social justice.

The NGO participants of this study were selected on the basis of having participated directly in advocacy relating to children in Direct Provision and included both national organisations working in the asylum/immigration sector, national children's NGOs and some regional immigration organisations. A total of fifteen organisations were identified as being of particular relevance to the study (through purposive sampling). These organisations were invited to participate and twelve organisations agreed to do so. One organisation declined and two did not respond to repeated requests. Each organisation nominated one particular person to participate (usually the person with the most responsibility for their advocacy work) and one organisation nominated two people. This amounted to thirteen NGO participants from twelve organisations.

In addition to NGO advocacy, the study examined the reception of such advocacy and how the targets of the advocacy reacted. Particular episodes or incidents were singled out as offering examples of clear advocate/policy maker interaction, and the way in which they advocacy and policy development intersected at such junctures was analysed. Policy makers were asked about the policy making process in general relating to asylum policy and the possibilities for influence by outside groups such as NGOs. This included the key players in such policy processes, such as agencies at whom such advocacy was directed, internal policy makers or civil servants who played a role in the development and implementation of such policy, and politicians who were involved in key committee meetings (particularly the Oireachtas Committee on Health and Children). Attempts were also made to interview the Minister for Justice, which was not possible. Secondary documentation including policy reports, Dáil reports, minutes of Oireachtas Committee meetings, official press releases etc. were also essential elements in tracing the role of NGO advocacy and its links with policy making.

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<sup>11</sup> These were mainly Irish national and regional NGOs, but also included UNICEF, the European Anti-poverty Network and ENARO (European Network of Asylum Reception Organisations – many of which are state organizations).

The final group of research participants included key observers who had written or worked extensively on the field of NGO advocacy and funders (philanthropic and statutory).

### ***1.3.2 Location of the study***

The study was not based specifically in any particular geographical region of Ireland and whilst some regional organisations did participate, the overall focus was on national policy making. Local and regional policy making or events are referred to where appropriate. Similarly the focus of the study was not on EU or other international policy or legal domains, but international processes are referred to where relevant to Irish national policy making.

### ***1.3.3 Time period***

The research concentrates mainly on the time period of ca. 2006 to 2011, but earlier references are made where appropriate. During the data collection phase, a strict time cut-off in relation to NGO advocacy on children and families in Direct Provision was not imposed. A minority of the NGOs had been involved in such advocacy since the inception of the policy in 2000, and spoke about some of their earlier work and how it had been received or early interagency structures. For most other NGOs however, they had focused specifically on the issue more recently or in some cases the staff member interviewed was relatively new and not in a position to speak about some of the earlier work of the organisation. The policy makers who were involved in the early stages of the policy also referred to it. The majority of examples given by both NGOs and policy makers relate mainly to the five year period preceding the research (2006-2011). The interviews were conducted during the period July 2011 to November 2011 (NGOs) and December 2011 to March 2012 (policy makers and others). Whilst some relevant events occurred during the write-up phase of the research, these are included as references where appropriate, but do not form part of the core data collection.

## **1.4 Theoretical underpinnings**

Whilst the initial idea behind the research stemmed from my interest in the empirical context and the desire to know more about how such advocacy influences policy making, a number of relevant theoretical concepts relating to advocacy, policy making and the specific sphere of asylum or immigration policy emerged as very influential. These were

combined into an overarching framework for the analysis of the process of advocacy and its intersection with agenda setting. A review of relevant literature and studies was undertaken and in light of the central research question, a series of key gaps or areas where deeper understanding may be required emerged. These are the key theoretical underpinnings of the study and can be summarised as follows:

Firstly, theoretical understandings of advocacy and its links to policy making are not very developed and this study attempts to add to the growing body of literature on the processes of advocacy and combine it with the theoretical perspective of agenda setting. The body of literature on systemic (as opposed to individual) advocacy is multi-disciplinary and growing, particularly within the multi-disciplinary field of non-profit analysis (Andrews and Edwards, 2004). A number of authors have however indicated that analysis of advocacy processes and its links to policy change would benefit from political science models and understandings of policy processes (Carpenter, 2007, Andrews and Edwards, 2004, Casey et al., 2010b). It is hoped that this study will partially address this gap and bridge understandings of advocacy and policy analysis. A limitation of the study is that it concentrates particularly on the stage of policy making known as agenda setting and the process whereby actors attempt to place their issues on the public agenda; but does not provide a very in-depth analysis of what happens after such issues are put on the agenda and how they influence policy-making in the long term.

Within the sphere of empirical advocacy literature and studies, a number of gaps also emerged. This included a lack of empirical research relating to the influence of this particular strand of advocacy and its links with policy making in Ireland. Whilst some research has been conducted on advocacy in Ireland in general (Keenan, 2008, Keenan and Montague, 2010, Hodgett and Sweeney, 2009), this has not been linked extensively to policy making or the processes through which advocacy and policy making intersect. The particular domain of asylum reception and immigration policy in general have been the subject of considerable academic interest; from various angles including legal aspects (Breen, 2008, Breen, 2003, Thornton, 2007), social work (Christie, 2003) and the impact on children (Fanning and Veale, 2004, White, 2011, Uchechukwu Ogbu, 2011). NGOs have also written extensively on the subject of Direct Provision, including a wide range of submissions and research reports (FLAC, 2009, FLAC, 2003, Arnold, 2012, Collins, 2002, Doras Luimni, 2011). Whilst numerous reports have detailed the shortcomings of the system of Direct Provision, relatively little is known about the processes of NGO

advocacy as they attempt to raise such concerns and whether they have had any success in putting such concerns on the public agenda.

Secondly, in order to understand the processes of policy making and its intersection with advocacy, a number of possible approaches to policy analysis and the role of various actors within the process became evident. An area known as agenda setting, whereby actors attempt to put their issues or concerns on the public agenda emerged as particularly pertinent to this study. One of the main proponents of such an approach to the early stage policy making is Kingdon (1995) whose study on policy making processes in the U.S. and how various actors attempt to influence the agenda is very relevant. Policy making is viewed through the lens of multiple streams which collide at various points and actors operate from the inside or outside. In the current study advocates are similar to outside interest groups attempting to influence the policy process and gain access to relevant decision making structures and processes.

Although not without its limitations, the framework of agenda setting is useful here in terms of conceptualising the various streams in the policy process in addition to understanding the random elements that occur within the wider environment. The metaphors of policy entrepreneurs being akin to surfers waiting for the next wave helps in understanding the motivations of passionate advocates both outside and inside government who waited to seize their opportunity to put their ideas on the agenda. In Kingdon's model the concept of a 'policy entrepreneur' is pivotal, referring to advocates for particular proposals and can be found in or out of government, including interest groups.

Such theories in relation to agenda setting and other theories of policy change such as the Advocacy Coalition Framework (that examines how coalitions form based on particular values) are dominant in the U.S. political science literature, yet not applied widely in the European or Irish context. Questions are posed in relation to how useful such a model is in this context; its strengths and weaknesses, and how it could be adapted to link advocacy and policy making within this particular policy domain. Other policy analysis approaches are examined and drawn upon where appropriate. The work on network analysis in policy making (Marsh and Smith, 2000) provides a further dimension to the analysis of how various networks shape the policy process.

Finally, the study is situated within a very particular policy domain and cannot be analysed within an entirely neutral framework of policy analysis. The accommodation arrangements of Direct Provision come under the State's reception policy for asylum seekers, located within the overall immigration and asylum policy domain under the Department of Justice and Equality. Although many of the issues that have been raised relate to the health, welfare and well-being of children and families, the policy arena under which decisions are made in relation to the accommodation of asylum seekers generally emanates from the Reception and Integration Agency (RIA) of the Department of Justice and Equality, with very limited input from other Government departments. It has been argued that the focus of such policy is on deterrence and the avoidance of further pull factors, rather than the well-being and welfare of those within the system (Thornton, 2007, Breen, 2008). The Theory of a racial state (Goldberg, 2002) has been utilised in a number of studies examining immigration and asylum policy and the focus of the State on exclusion, control and deterrence. These include writings by Lentin on how the State was central in the construction of racism and excluding immigrant others (Lentin, 2007). Whilst the positing of the State as racial in its actions particularly in relation to immigration and asylum policy has some merits, it does not sufficiently capture the complexities of the process and the varying reasons for people's decision making. The concept of a 'state of exception' as formulated by Agamben (2005) helps us to understand how in times of crises states can introduce laws and policies outside the realm of what is considered acceptable. Hintjens et al (2011) use such a concept in their analysis of 'pro-asylum advocacy' and how the worldviews of such advocates based on a shared sense of humanity and justice can collide with those of a state concerned primarily with deterrence based approaches (in line with a 'state of exception').

## **1.5 Approach to the research**

One of the key challenges of the research lay in the methodological and conceptual linkages between advocacy and policy making. Much of the work on agenda setting has been based on large-scale quantitative (and some qualitative) studies, often focusing on multiple policy areas (Kingdon, 1984, Zahariadis, 2003, John, 2003, Kingdon, 1995). Many of the key works on agenda setting and other evolutionary models of policy change (Baumgartner and Jones, 2009, Sabatier and Jenkins-Smith, 1993) have been based largely in the U.S., a federal and more pluralist system than many EU parliamentary



democracies. Work on agenda setting could also be criticised for being too neutral and not differentiating sufficiently between different policy domains. This research differs from such studies and is more akin to an in-depth case study on the intersection of advocacy and policy making within a very particular policy area. This study, located within a constructionist framework focuses particularly on the voices of advocates, policy makers and some observers and funders and their interpretations of specific events, structures and processes. Through in-depth semi-structured interviews, actors were asked to ascribe meanings to their advocacy work, how it was received (perceptions of advocates and policy makers) and the various intricacies involved in policy making and placing issues on the public agenda. Secondary documentation was also crucial in the tracing of advocacy and various policy processes.

## **1.6 Limitations and challenges of the study**

The key challenges and limitations of the study can be summarised as follows:

- The study was relatively small and based in a very particular policy domain and context and therefore cannot be considered to be a large-scale study of agenda setting in Ireland. Whilst it would be difficult to draw wide-ranging generalisations in relation to how policy is made in Ireland and the role of various actors in contributing to this process, it nevertheless offers a detailed analysis of a particular domain and the challenges and intricacies associated with the intersection of such advocacy and agenda setting.
- There were a few methodological challenges associated with the study, including the difficulty in accessing some policy makers (particularly politicians) involved in the formulation of policy in this area. As it was not possible to interview all relevant policy makers, secondary documentation and a webcast of an Oireachtas Committee meeting provided crucial additional material that was used in conjunction with the interview transcripts.
- As part of the ethical approval process and after consultations with research participants, it was deemed necessary to preserve the anonymity of the participants where feasible. For some working in this sector (both governmental and non-governmental), this is a sensitive field and participants were encouraged

to speak freely and gave opinions that in some cases reflected more their personal opinions than the official standpoint of their organisation. In writing up the research results, limited background information is therefore given about each organisation in order to preserve anonymity. In some cases, the provision of such background information could have made the descriptions richer.

## **1.7 Structure of the thesis**

This thesis presents the results of the study on the role of NGO advocacy in relation to children and families in Direct Provision accommodation in Ireland and its intersection with agenda setting. The thesis is structured in a way in which the context and existing knowledge in relation to the area is first presented and analysed, followed by analysis of the findings and a discussion of their relevance. This chapter has provided an overview of the study, its rationale, objectives, theoretical underpinnings, methodological approach and key limitations.

In **Chapter Two**, a review of relevant literature and conceptual underpinnings of the study are provided. This includes a focus specifically on understandings of agenda setting and how this fits within an overall context of policy analysis. The weaknesses and limitations of such approaches are discussed and suggested adaptations to the framework are proposed. Current knowledge in relation to systemic advocacy, its effectiveness and core strategies are also discussed both internationally and specifically in relation to the Irish context. This is then narrowed to specifically examine advocacy for children and pro-asylum or refugee advocacy and the various challenges involved.

**Chapter Three** outlines the policy and legislative context in which the study is situated. In order to understand processes of policy change and how advocates attempt to place their issues on the public agenda, it is necessary to first understand the particular policy context, key processes, actors and structures involved. Some of the particular concerns raised by NGOs in relation to children and families in Direct Provision are also outlined here, based mainly on their submissions and reports.

In **Chapter Four**, the methodology is presented, commencing with the location of the study within a constructionist framework. The linkages between the theoretical concepts, research question and methodology are explored, followed by a detailed outline of the

particular methods used and reasons for doing so. The methodological challenges and ethical issues are also discussed here.

The voices of the NGO actors in the study are prominent in **Chapter Five**, which sets out the role of advocacy, particular strategies used and why NGO actors believe they are effective. The wider environment of advocacy and the distinction between insider and outsider strategies are examined here.

**Chapter Six** continues to examine NGO advocacy, with a focus on how NGOs have changed their approach over time. Particular themes analysed here include changes in targets of advocacy (from civil servants to politicians), emphasis on coalition building and how they use advocacy as a means of putting their concerns on the Government agenda. It explores in greater detail the nuances of the policy domain they are seeking to influence and the particular constraints they face. The role of public opinion and outsider advocacy strategies are also discussed.

Whilst the perspectives of some policy makers are incorporated into chapter five, their perspective features more strongly in **Chapter Seven**, which focuses primarily on the perspective of the policy makers, the dynamics and processes involved in policy making in this particular domain, their interactions with NGOs and advocacy from within the system. This chapter also introduces some key episodes of interactions between policy makers and NGO advocates and uses them as examples of how advocates sought to raise their concerns and the ensuing responses and reactions of policy makers and others. Secondary data sources are used here to supplement the interview material.

Finally, **Chapter Eight** combines the discussion and conclusions of the study. Based on the analysis of the data, it presents a revised multiple streams framework for examining the intersection of advocacy and agenda setting. The key findings of the research are then analysed in light of this new framework. Some of the particular challenges associated with pro-asylum advocacy are discussed in light of relevant theories. Finally the key conclusions and implications for practice are outlined.

Overall, it is hoped that this study will assist in our understanding of how NGOs become involved in advocacy that seeks policy change in this context and how such advocacy intersects with the early stages of the policy making process.

## **Chapter Two:**

### **Making Policy, Setting Agendas and Advocating for Change**

#### **2.1 Introduction**

There are various approaches that can be taken in exploring the research question of how NGOs advocate in this policy domain, how such advocacy is received and the linkages between advocacy and agenda setting. This chapter sets out some of the key literature that is relevant in attempting to address the central question of the study and is useful in providing a theoretical framework. It is located broadly within the domain of political science with the incorporation of some sociological and socio-legal perspectives.

Much of the work to date on advocacy and its influence on agenda setting has taken place within the U.S.<sup>12</sup> There are numerous models and methods of policy analysis and a wealth of literature on a wide range of aspects of the policy process (2009, Hogwood and Gunn, 1984, Baumgartner et al., 2009, Sabatier and Jenkins-Smith, 1993, Marsh and Rhodes, 1992, NESO, 2005, Sabatier and Weible, 2007). The concept of advocacy is a topic of increasing interest to academics, and has been analysed in multi-disciplinary contexts; including political science, sociology and the interdisciplinary area of not-for-profit research (Andrews and Edwards, 2004). Whilst some studies have attempted to link advocacy and policy-making (Carpenter, 2007, Andrews, 2001, Birkland, 1998), there is more limited literature outside the U.S., specifically on the process whereby outside interest groups have attempted to influence the agenda setting phase of policy-making through advocacy.

This study carries the dual objectives of exploring and seeking to understand empirical data and secondly making a contribution to the broader knowledge in the field. Firstly it seeks to understand the empirical processes and events of NGO advocacy in this regard and the influence (if any) it has on how reception policy for asylum seekers is formulated. This involves taking a constructionist perspective to explore actors' perspectives on whether they feel that advocates have had an influence on putting their concerns on the

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<sup>12</sup> In the U.S., there have been several studies on the role of interest groups and lobbying and their influence on policy making. See e.g. Baumgartner, F. R. and Leech, B. L. (1998) *Basic interests : the importance of groups in politics and in political science*, Princeton, N.J. ; Chichester: Princeton University Press. , Hojnacki, M., Kimball, D. C., Baumgartner, F. R., Berry, J. M. and Leech, B. L. (2012) 'Studying Organizational Advocacy and Influence: Reexamining Interest Group Research', *Annual Review of Political Science*, 15(1), 379-399.

public agenda. Secondly it is hoped that by doing so, it will also lead to an improved understanding of the links between the processes of policy-making, agenda setting (as formulated by Kingdon 1995) and the influence of advocacy.

The first two sections of this chapter set out the first dimension of the relevant literature for this study, namely the domain of policy making and analysis. **Section 2.2** explores the analysis of policy making, more specifically the concept of agenda setting (Kingdon, 1995) and its place within the policy analysis literature. It also examines alternative models of policy analysis such as the Advocacy Coalition Framework (Sabatier, 1988) and the Punctuated Equilibrium model (Baumgartner and Jones, 2009), which draw their analysis from evolutionary biology and its processes of change. Whilst such approaches may be difficult to apply in the relatively limited context of this study, they nevertheless offer some useful insights into the process of policy change and the range of factors that influence it, including external ones. **Section 2.3** examines the policy network approach and its potential relevance for the study (Marsh and Smith, 2000, Marsh and Rhodes, 1992).

**Section 2.4** focuses on advocacy and particularly how systemic advocacy (as opposed to individual advocacy) has been theorised and written about in the literature, with an emphasis on literature that links advocacy and policy-making. The various forms of advocacy, evaluation of its effectiveness and research strategies to analyse it are considered. Advocacy specifically in the Irish context is explored, with a review of some relevant empirical studies. There is also a sub-section on attempts to make linkages between advocacy, issue emergence and agenda setting, with observations on the particular gaps in this area.

Finally the specialist forms of advocacy related to this study are examined. **Section 2.5** looks briefly at advocacy specifically for children. **Section 2.6** addresses the challenges of advocacy within an immigration/asylum context, including the dilemma of basing such advocacy primarily within a child rights' discourse or within the context of the immigration and asylum systems. Some of the theoretical underpinnings of refugee advocacy are examined, including some of the principle discourses on refugees and asylum seekers to be found in the literature and human rights approaches. Theories of the racial state as put forward by Goldberg (2002) and adapted by various others (Lentin,

2003, Lentin, 2007) may also be relevant, together with the notion of challenging a ‘state of exception’ (Hintjens et al., 2011).

## **2.2 Understanding and analysis of influencing the public policy process**

### **2.2.1 Overview**

The literature on analysis of policy-making is vast, with most authors agreeing that the process of policy-making is complex and multi-layered (Hill, 2009, O'Connor et al., 2012). Whilst it may be argued that policy-making is a fluid and dynamic process (John, 2000), many authors make assumptions that policy-making consists of a series of stages (Kingdon, 1995, Hill, 2009, Easton, 1965). Whilst the distinction of neat stages has been strongly contested by some (John, 2000), other authors accept their broad existence, albeit with feedback loops between the various stages (Hogwood and Gunn, 1984, Hill, 2009). Policy analysis can be conducted through various lenses. At a broad level this may include overarching approaches such as institutionalism (regarding the role of institutions), elitism (assumption of elite domination (Evans and Coen, 2003)) or pluralism (emphasising the ability of multiple actors to participate in the democratic process (Murphy, 2003)). The approach used here combines both aspects of pluralism whereby the influence of interest groups is explored (as evidenced in Kingdon’s framework) and institutionalism, through the analysis of the role of various institutions and networks involved in the policy-making process.

Whilst there are difficulties with isolating neat stages, the stages approach is nevertheless useful in ascertaining particular points at which outside interest groups assert influence on the policy process. The stage and approach identified by Kingdon (1995) as ‘agenda setting’ has provided a useful framework for analysis and particular lens through which the influence of advocacy on the early stages of policy-making can be viewed. Other approaches that seek to understand how policy change occurs are also referred to, such as the Advocacy Coalition Framework (Sabatier, 1988), which provides useful insights in terms of conceptualising coalitions of actors that seek to bring about policy change.

### **2.2.2 The Policy Process – A Stages Approach**

Models of the policy process were found to be useful in terms of studying the potential influence of advocacy organisations. In attempting to explore the linkages between advocacy and policy making, Andrews and Edwards (2004, p492) identified five aspects

of the policy making process where the influence of advocacy could be measured. Building on prior models, these included the categories of: (i) agenda setting; (ii) access to decision-making arenas; (iii) achieving favourable policies; (iv) monitoring and shaping implementation; and (v) shifting the long-term priorities and resources of political institutions. All five categories are important dimensions of the policy-making process and advocates may attempt to achieve influence across them all. For the purpose of this study however, the emphasis will be mainly on the category of agenda setting and the inter-related category of access to decision-making arenas. Notwithstanding such a focus, the other factors cannot be neatly isolated and advocacy often seeks to influence all five.

The stages approach assumes that policy formulation occurs through a series of sequences or stages. It has its origins in systems theory, formulated by authors such as Easton (1965) who viewed political activity in terms of a number of different processes or systems that need to stay in balance with each other. Processes include inputs (demands and supports), which feed into decision making and in turn produce outputs (decisions and policies) and outcomes are the effects these outputs have on citizens. Within this framework, various feedback loops operate to influence future inputs into the system. Other authors have developed his model further and have identified a number of key stages. The model proposed by Hogwood and Gunn (1984, p4) is useful in this regard, with some of the stages they identify including:

- Deciding to decide
- Deciding how to decide
- Issue definition
- Forecasting
- Options analysis etc.

Critics of the stages approach however, have pointed out that it may refer more to what should happen, rather than what actually happens in practice, which may be radically different from the proposed framework (Hill, 2009). One of the important considerations in applying such a model are the interactions and feedback loops between the various stages and that stages are not insulated from each other.

Whilst there are difficulties in neatly distinguishing policy stages, it can be a useful framework for understanding how a problem gets on to the political agenda. Problems

may remain individual or private or they may be shared with others. Gusfield (1981) makes the distinction between social and public problems, with not all social problems becoming public problems. This transfer from the social to the public sphere forms part of the agenda setting process (Hill, 2009). Social problems do not become public issues by themselves and whilst a pluralist view of democracy asserts that all actors have access to the public stage, it can also be argued that many actors are powerless in the process and the agency of powerful actors is crucial in terms of articulating the political agenda. Lukes (2005) makes the point that public power is exercised in the possibility of keeping certain social problems off the public agenda, which in this study may partly explain the lack of prominence of issues of asylum seekers.

### **2.2.3 Kingdon's Model of agenda setting**

The public policy literature on agenda setting (Kingdon, 1995, Baumgartner et al., 2009) provides a useful framework for the study of how organisations and other actors can influence Government agendas. Kingdon's model of agenda setting (1995) analyses policy making in terms of a metaphor of a soup like environment, with three inter-related streams that permeate the entire process. Firstly, the *problem stream* refers to the issues or problems that have been identified. Secondly, the *policy stream* is where solutions and alternatives to such problems are found. Thirdly, the *politics stream* includes factors such as the national mood, interest group activities and changes in the administration. The collision of changes in the streams, combined with timely opportunities can lead to agenda setting through the opening of policy windows. He found that policy makers cannot always explain where policies come from and there is an interaction between randomness or stochastic elements and the processes of problems, policies and politics. Those who try to put issues or problems on the policy agenda are called policy entrepreneurs and they are compared to surfers waiting for a big wave. The combination of the short attention span of the media, changing needs of politicians and other actors means that the policy process environment is always changing. This is seen in terms of windows that open briefly and then close.

Kingdon (1995) distinguished between those on the inside of Government and those on the outside; including what he terms 'interest groups'. He finds that 'when we say that interest groups are important in agenda setting, we might conclude that they are promoting new agenda items or advocating certain proposals' (*ibid*, p49). Whilst they do not have a formal decision-making authority, they were found to have positive impact on



the government's agenda, but it was not found possible to assign the emergence of agenda items solely to interest groups. He also makes the important point that even if an interest group raises an issue, it does not control the debate once the issue is raised. This is important as it demonstrates that whilst interest groups may have some influence on issue identification, this does not translate into any automatic right to determine the course of action following on from the identification of the issue (e.g. proposal formulation). A further noteworthy comment Kingdon makes is that a central interest group activity is attaching one's own alternative agenda items that others may have made prominent (*ibid*, p50). In other words, interest groups may react to certain Government proposals or agendas by formulating their own alternatives. In the case of advocating on behalf of asylum seekers, NGOs may be doing so as a reaction against the seemingly draconian policies pursued by the Government and may be lobbying for the adoption of alternative ones.

Kingdon identified two groupings of participants in the policy process; a visible set of actors (elected members and their high level appointees, the media and political parties) and a hidden cluster made up of academics, researchers, bureaucrats etc. Interest groups travel between the two, with some of their activities in the public sphere and others are hidden. This again may be an important element to consider in examining the advocacy activities of NGOs in this context, who may work at both hidden and more visible public levels. Kingdon found in his research that public actors such as mass media, elections, campaigns and changes in mass public opinion were found to affect the agenda more than the alternatives. The less visible on the other hand were found to affect the alternatives but not the agenda.

Kingdon also criticises the rational decision making model as he claims human beings do not have such rational capacities as the model would imply. He stated (1995, p78) that 'the case studies have something of a loose, messy quality to them, not the tight, orderly process that a rational approach specifies. Often, a somewhat accidental confluence of factors seems to loom rather large in the descriptions'. Similarly, whilst he found that incrementalism, where change happens slowly in small increments holds true for some policy making activities, he found that in general it does not describe agenda change particularly well. Some agendas were found to catch on or take off suddenly, rather than gradually over time. His other metaphor of items being put on an agenda because a 'policy window' opens in a policy system is a useful way of capturing how opportunities

can be created. Sometimes a mixture of chaotic or random events and problems, policies and politics converge to give rise to this opportunity.

In Kingdon's model the concept of a 'policy entrepreneur' is pivotal, referring to advocates for particular proposals and can be found in or out of government, including interest groups. Their defining characteristic is however their willingness to invest various resources 'in the hope of a future return' (Kingdon, 1995, p122). His understanding of their advocacy however differs from the understanding of advocacy used in this study; with advocates being found in a variety of positions and places, sometimes for personal gains and not necessarily associated with the community or not for profit sector. In his analogy, they may also be located within the Government itself as a politician or public servant. The concept is however, relevant here in terms of understanding the role of particular individuals or organisations who attempt to influence policy making through agenda setting. Their characteristics include a claim to a hearing (i.e. access to relevant people who will listen to them); being known for their political connections or negotiating skills; and thirdly, their persistence (Kingdon, 1995, p181).

In adapting his framework to the current study, some of the questions it gives rise to include:

- Have any particular policy windows opened, that have allowed NGOs to raise their concerns particularly around asylum seeker children and families in Direct Provision?
- What events/factors led to these windows opening and who were the key players?
- If these policy windows have not opened, why not? Have alternative windows opened, which have allowed these concerns to be raised by other means?
- Is it possible to identify any particular 'policy entrepreneurs' pivotal in the process, i.e. someone who recognises a problem, attaches a policy proposal to it and floats the proposal in various forms to bring it to the attention of officials that have the power to place it on the agenda (Kingdon, 1995)?

#### ***2.2.4 Limitations and adaptation of the model***

Whilst this model is a very useful and well established framework for the analysis of why certain issues are put on the public policy agenda and others are not, it is not without its

limitations. Some of these are listed here, including suggestions for its adaptation to the current study.

- 1) Kingdon's model has been criticised for being too ethnocentric, and based solely on the practice of the federal Government in the United States. It may not pay sufficient attention to institutional variations in other countries, such as in the EU (Hill, 2009). Some attempts have been made however by authors to apply it in an EU setting, such as Zahariadis (2003) work on political decision-making in European parliamentary democracies, based on the model developed by Kingdon. In this book analysis is made by examining one issue at a time (*ibid*, p10), rather than the multiple issue level of Kingdon. The differences between the 'organised anarchy' of the U.S. federal system is contrasted with the parliamentary democracies of Europe. Some noteworthy points in this comparison include firstly the tighter and more controlled systems of Europe including more restricted access of interest groups to decision makers and fewer actors having a role in the policy process. Secondly policy making in parliamentary democracies is less fluid than the U.S., where department secretaries move more frequently. Legislative majorities and stronger executive power in European systems also mean a reduction in the number of policy makers. This may include the importance of the politics dimension of agenda setting and the difference in countries such as the UK or Ireland where there may be a stronger executive and the role of a mandate on agenda setting, which may differ depending on whether a single party or coalition government is in place.
- 2) Some of the key differences in context include the important role of the permanent and apolitical civil service in Ireland, who do not have official responsibility for policy-making but through their permanence, expertise and careful control of issues can exercise significant indirect influence. The role of interest groups differs also in the Irish context, where they do not enjoy the status of professional Washington lobbyists (Baumgartner et al., 2009).
- 3) It has also been suggested that agenda setting is a more rational and organised process than Kingdon would suggest and particularly outside the U.S., it may be more akin to a rational search for solutions to problems (Bonoli and Shinkawa,

2005). This may depend very much on the particular institutional context and on the type of problem or process under analysis. It will be interesting in this case to test whether agenda setting can be seen as taking place within a rational process with a clear shape or whether the various streams identified by Kingdon converge in a more random and stochastic way.

- 4) Whilst Kingdon does play some attention to the role of actors and particularly key ones that he terms 'policy entrepreneurs', the notion of agency is not central and his references to windows opening and closing and the somewhat haphazard linking of problems, policies and politics lacks the dimension of agency of individuals in this process. Some authors have stressed the need to incorporate both agency and ideas into such theory (Peters et al., 2005). This is a central concern in Kingdon's approach and the notion of both the agency of the actors and their ideas will be incorporated as an extra dimension in the adaptation of the model in this context.
- 5) Much of the focus in the model of agenda setting is on placing issues on the agenda, with little emphasis on the substantive issues involved and the values attached to them. Such a model could be perceived as somewhat technocratic and removed from issues such as varying worldviews, values attached to particular proposals and the emotive nature of particular agenda items.

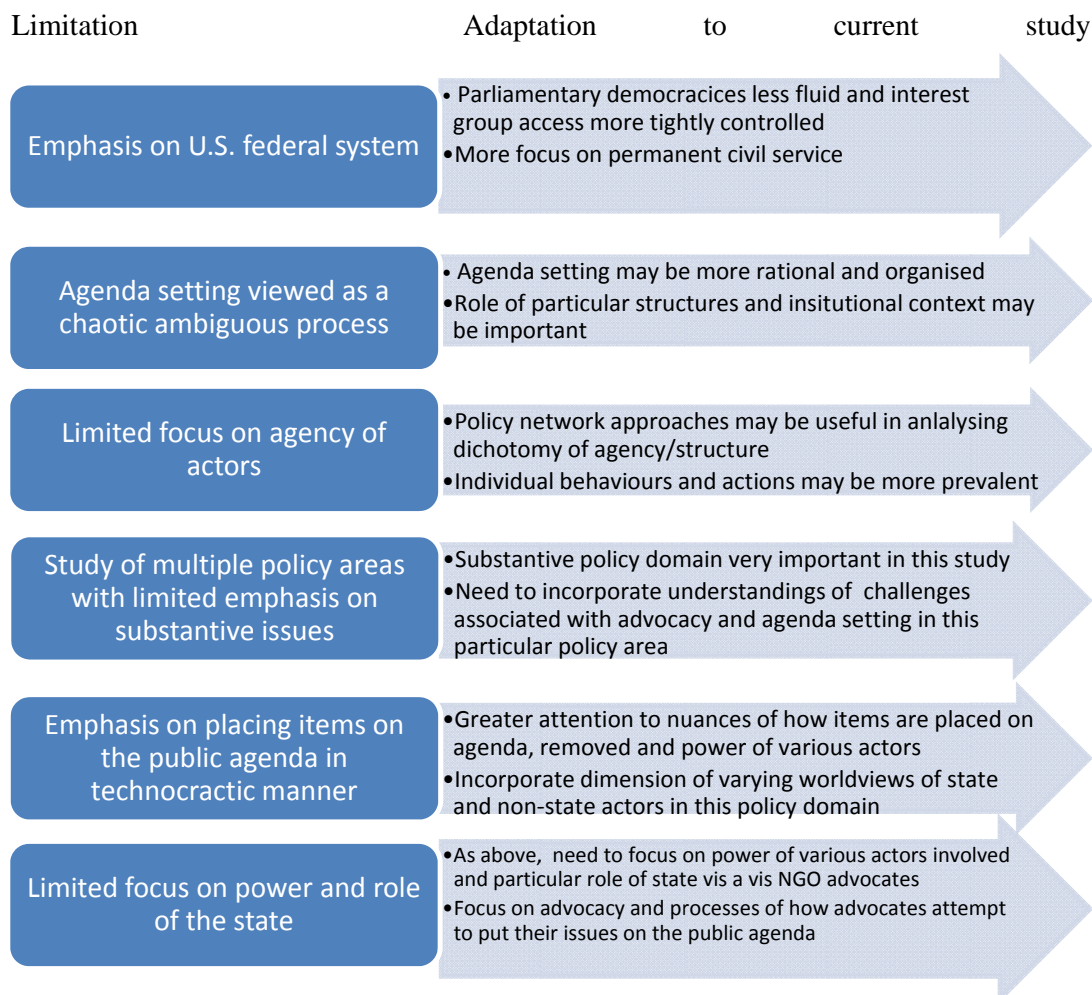
It has also been noted that agenda setting does not simply involve appearing on the agenda or not. A range of alternatives are open to issues, which can: appear on the agenda; be removed from the agenda; be prevented from appearing on the agenda or if already on the agenda can be prioritised (Eriksson and Noreen, 2002). Such nuances and the role of powerful actors in also removing agenda items or ensuring they do not appear are not sufficiently elaborated in the model. It has also given rise to the criticism of its over-focus on agenda setting only and its lack of appeal as a general explanation of policy making (Zahriadis, 2007).

- 6) A further concern with the model is its somewhat pluralist and uncritical nature, and lack of focus on the power of the actors who are in a position to influence factors such as problem identification and those who are likely to be 'policy entrepreneurs'. It has also been criticised for not placing sufficient attention on the

role of institutions and the institutional conditions that allow for access to the agenda (Mendes Pereira, 2012).

Whilst Kingdon's model is instrumental in the analysis in this study, a revised framework is suggested that uses elements of the model in conjunction with a conceptualisation of advocacy and the particularities associated with advocacy and agenda setting in this particular policy domain, including the challenges of pro-asylum advocacy. The conceptualisation of this framework is elaborated on throughout this chapter, linked to the particular methodology in Chapter Four and adapted in relation to the data in Chapter Eight. Figure 2.2.4 summarises some of the limitations of Kingdon's agenda setting model and provides suggestions for its adaptation to the current study. As noted in the next sections, this will be supplemented by understandings from the literature on advocacy and the challenges associated with pro-asylum advocacy.

**Figure 2.2.4 Adaptation of model to current study**



### ***2.2.5 Other Models of agenda setting and policy change***

Kingdon's model was first developed in his book in 1984, revised in 1995 and it became an important model in the analysis of public policy at that time and has been referred to by numerous authors since. Various other models of agenda setting have emerged, such as the Punctuated Equilibrium Framework of Baumgartner and Jones (2009), the Advocacy Coalition Framework developed by Sabatier (1988) or the emphasis on focusing events developed by Birkland (1997). John (2003) classifies all these models as what he terms 'synthetic' due to the fact that they bring together much of the research on institutions, networks, socioeconomic process, choices and ideas, which were earlier models that focused on one of these categories. He describes Kingdon's model as being based in evolutionary theory, such as where Kingdon (1995, p. 207) finds that there are certain combinations of ideas and proposals that have the potential to evolve, but others do not.

The Punctuated Equilibrium Framework (Baumgartner and Jones, 2009) explains changes in public policy through an evolutionary biology analogy of organisms being in a state of stasis, which is then broken by rare events of large net changes. In such a model normal policy-making involves routine and non-innovative changes at the margins of existing policies and structures and non-incremental, paradigmatic change includes new policies, which represent a change from how policies were developed and conceived in the past (Howlett and Rayner, 2006). Such a model, whilst providing some useful insights into how change occurs using process sequencing focuses more on broader policy formulation and changes over time, rather than the narrower focus on agenda setting. It is also methodologically difficult and involves the study of policy changes over an extended time-frame.

The Advocacy Coalition Framework (Sabatier, 1988, Sabatier and Weible, 2007) provides some useful insights for this study as it seeks to conceptualise the influence of the belief systems of advocacy coalitions, which are made up of actors from a variety of institutions and share common beliefs, different to broader conceptualisations of policy networks. Sabatier divides the policy system into 'policy sub-systems' and describes actors of engaging in co-ordinated action in favour of or against policy goals. One of the useful principles of such an approach may be the emphasis on coalitions (actors with similar belief systems); how they seek to manipulate governmental and other institutions to change people's behaviour in an attempt to implement their own belief systems. The

implementation of the framework in its entirety would not be of great relevance as it is a conceptualisation of an entire policy system, focusing on a wide range of actors within it over an extended timeframe. It usually involves the tracing of events, behaviours and coalitions over a period of a decade or more in order to adequately understand policy change and a recognition of the importance of policy sub-systems (Sabatier and Jenkins-Smith, 1993). The model was used for example in an Irish study on the rise and fall of Social Partnership from the late 1980s to late 1990s, using a model adapted to less pluralist policy contexts outside the U.S., which involved a greater emphasis on the importance of consensus necessary for political change (Adshead, 2011). This study also involved a strong actor-oriented approach to analysis, with attention on the perceptions of policy participants.

An interesting study conducted in Sweden studied how an environmental coalition effectively challenged urban development plans, with the result that the area was instead developed into a nature reserve, using the concept of how two different policy coalitions competed with each other (Olsson, 2009). The ACF was useful in understanding how coalitions who differed in their core values and policy beliefs conflicted with each other. Whilst the ACF approach provided many insights in terms of the value networks, further dimensions such as context and power dynamics within coalitions were found to be important. Concluding on the usefulness of the ACF, the author found that

*the importance of values and beliefs for a coalition must be understood in a more open way and in relation to the values and beliefs of other actors, with attention paid to the functioning of particular networks (ibid, p181).*

In such examples however, the main actors or coalition frameworks are made up of people with some levels of access to decision-making and are given a formal role in the process. In these cases, it is easier to neatly distinguish coalitions sharing certain values and policy beliefs. The policy sub-system of the current study (governmental policy aimed partly at controlling and deterring asylum seekers) is more complex, less pluralist and more challenging for consensus building than a process such as ‘Social Partnership’. The actors in favour of or against a more liberal asylum regime cannot be neatly distinguished into advocacy coalitions that compete on an even playing field and the power dynamics and contextual factors play a very important role here. Such challenges are discussed further in Section 2.6. Inherent in the ACF is the presumption that belief changes can lead to policy change and that belief change occurs through either policy

oriented learning or turnover of policy elites (Kim and Roh, 2008). It would be difficult to attempt to attribute belief change within NGOs to policy networks and the real challenge for NGOs lies in attempting to bring about belief change among existing policy elites (politicians and senior civil servants).

## **2.3 Policy network approaches**

### **2.3.1 Overview**

Another perspective to understanding policy development is the policy network approach, which building on social science network perspectives, attempts to explain the policy process and its outcomes according to the patterns of relationships among policy actors (Kim and Roh, 2008). It also has its origins in corporatist theory, which indicates that there is a need to pay attention to the ways in which powerful interest groups operate outside the state. Dunleavy (1981) identifies ideological corporatism in operation in policy communities in which there is an acceptance or dominance of a unified world view across the different sectors and institutions. The suggestion is also made that there are strong links between actors or policy communities. The relationship between non-state actors and the state is defined in different ways by various theorists, ranging from pluralist theory that stresses the competition between groups to influence the state, Marxist theory that views the state as the personification of capitalism or exchange theory which suggests an alternative view, that pressure groups need to influence policy and the institutions of the state need support from powerful groups outside it (Hill, 2009).

### **2.3.2 Policy communities and issue networks**

The policy network literature refers both to ‘policy communities’ which have shared values, frequent interactions and a relative balance of power among members, and to ‘issue networks’, which are large and diverse, with fluctuating levels of contacts and lower levels of agreements than policy communities (Hill, 2009). Some analysis of the policy network literature may be of relevance for this study as it may offer some insights into the dual concepts of both the structure of the networks in which agendas may be set and the role of agency of the diverse actors operating within such structures. The dichotomy of structure and agency is a common theme in the policy network literature, with various authors favouring one over the other.



A review of some of the approaches in the policy network literature was carried out by Marsh and Smith (2000), in which they identified four key approaches, namely: the rational choice approach; the personal interaction approach; formal network analysis and the structural approach. In each of the approaches whilst they had their strengths, they found that they all failed to recognise that the use of policy networks as an explanatory variable involves dialectical relationships between: (i) structure and agency; (ii) network and context and (iii) network and outcome. They in turn proposed a new and somewhat complex conceptual framework, which involves a dialectical or interactive approach building on these three relations and included some extra dimensions. One of these added dimensions, which may be useful for this study, asserts that it is difficult to neatly distinguish between endogenous and exogenous factors in studying networks and the wider context. Policy networks also reflect external factors such as class and gender structures and may reflect the broader patterns of inequality in society. The structure of networks cannot be taken as a given and it is important to try to explain their origin and how they are situated in relation to structural divisions. This is an important point to remember when analysing the structures in which agendas are set and policies are made; and to note that change does not only happen due to reacting to external factors, but also by the network's capacity to mediate the effects of such external events. This also demonstrates the difficulty in neatly distinguishing between structure and agency or context and outcome; and how they constantly interact with each other. In the present study, it may be interesting to consider the make-up of the structures of policy networks in the area of asylum policy, the access NGOs have to these networks and the constraints under which such networks exist.

Policy network approaches have been employed by a diverse range of authors, with multiple meanings and definitions used. Adam and Kriesi (2007) classify the various approaches, including policy networks as a form of governance, networks within a policy sub-system and formal network analysis that uses specific quantitative tools to analyse the structures. In the approach of viewing policy networks within a policy sub-system, they points to the power system within a policy sub-system and the extent to which such power is concentrated. Different types of actors (state actors, NGOs etc.) may have access to differing shares of power. The degree of co-operation between such actors and between actor coalitions is also important to note.

### **2.3.3 Levels of Policy Analysis**

This can also be viewed in terms of micro, meso and macro level analysis. Kim and Roh (2008) in their article 'Beyond the Advocacy Coalition Framework' identify particular units of analysis at each level, namely policy actors at the micro level, policy networks and coalitions at the meso level and institutional settings, culture and state/community relations at the macro level. They advocate that the policy process is better understood when all three levels of analysis are put together. It is argued by them and others such as Marsh and Rhodes (1992) that policy networks need to be understood in their broader political, economic and ideological environment. Marsh and Rhodes (1992, p4) go further and state:

*...the concept of 'policy network' is a meso-level one which helps to classify the patterns of relationships between interest groups and governments. But it must be used in conjunction with one of the several theories of the state in order to provide a full explanation of the policy process and its outcomes.*

The macro or contextual level of analysis will be important in this study as the ideological nature of defining notions such as citizenship, statelessness, human rights of children and the desire to control immigration versus providing protection and humanitarian assistance and the overall approach of the Government towards such notions are crucial.

### **2.3.4 Conclusions**

The policy network literature will not be used as the main framework of analysis here as the focus of the particular study is on advocacy as a tool for influencing the state agenda and whilst policy networks may be found to play a role, they are not the primary unit of analysis in this case or the lens through which the research is considered. A thorough analysis of policy networks would entail much attention spent on defining relationships, networks and interactions between members as well as inter-network relations. Such an approach also presumes that policy networks firstly exist; secondly that they matter and thirdly that they are dynamic and changing coalitions between actors that have the power to act and react. Whilst this may hold true in many cases, it may be difficult to see policy networks as a primary driver behind asylum policy and that if they do exist that they are dynamic and interactive. The policy analysis approach proposed by Kingdon has more relevance as its focus is specifically on how ideas and proposals can be put on the policy agenda. In using such an approach however, cognisance is taken of some elements of the policy network literature in as far as it can provide a complementary lens for exploring

the central research question or can help to analyse particular variables. Some of the features of this literature that are used in the analysis include:

- Viewing policy networks as a meso level of analysis and recognition of the roles of micro and macro levels and the interactions between them;
- Some attention to the structural approach to networks and how the shaping of such structures contributes to policy agendas and outcomes and how such structures may mirror other structural inequalities;
- A means of overcoming the dichotomy of structure and agency and a means of examining the interactions and feedback loops between structure and agency.

## **2.4 Public advocacy and interaction with public policy**

### **2.4.1 Overview and definitions**

The academic literature on advocacy is developing, although a number of issues exist in terms of definition, scope and common understanding of what exactly is meant by the term advocacy and how it is applied, understood and analysed. The Oxford English Dictionary defines the word advocacy as ‘(1) public support for or recommendation of a particular cause or policy or (2) the profession or work of a legal advocate’ (Fowler, 1995). The notion of advocacy has its origins in its oldest form, namely that of the legal context where lawyers act as advocates in court to represent the interests of their clients. Advocacy has extended too many other spheres and in a non-legal context. Advocacy can be seen as acting positively on behalf of someone else. Areas in which advocacy has been to the fore include the promotion of rights and voice of people with disabilities and users of the mental health system, and in addressing the concerns of children in care. Advocacy developed as a key tool for such groups in the 1980s and was described as a key tool in adjusting the power relations between service users and service providers, and as a vital element in challenging inequality and oppression (Oliver et al. 2008).

Whilst advocacy has developed strongly in the areas of mental health, disability and children in care, this often stems from an individual form of advocacy where the voice of the individual can be heard. This in turn also led to more collective forms of advocacy where groups and organisations advocate for the wider rights of a particular group of people. This study is particularly concerned with collective issue-based or systemic advocacy, which aims to bring about public policy changes. Collective Advocacy is when

organisations or groups of people sharing common concerns, advocate on behalf of the particular group or specific issue in a collective manner and seek general or policy changes, rather than simply advocating at the individual level. Advocacy in this case is not just about achieving personal improvement but also for political, legislative or economic change. Collective or systemic advocacy can be linked to rights-based approaches in which groups or organisations seek the realisation or granting of rights to their members. Advocacy organisations which provide individual advocacy services often also advocate on behalf of their clients at a more general level.

In the literature, this form of advocacy is often termed non-profit advocacy, particularly in the U.S. context. Various definitions of this form of advocacy have been offered, with the most cited being Jenkins (1987) who defines advocacy in the non-profit field as ‘any attempt to influence the decisions of an institutional elite on behalf of a collective interest’. The definition does not use the word ‘state’, but the majority of non-profit advocacy activities are usually directed at the state in its various guises. The definition offered by Andrews and Edwards (2004) concentrates on the inherent conflict in the nature of advocacy by defining it in terms of ‘advocacy organisations make public interest claims either promoting or resisting social change, that if implemented would conflict with the social, cultural, political or economic interests or values of other constituencies and groups’ (p481). This definition is useful in terms of viewing advocacy as representing a particular point of view or claim, which does not coincide with the interests or views of others.

#### ***2.4.2 Exploring the advocacy literature***

The literature available on advocacy is relatively broad, located within a wide range of disciplines and linked to many diverse research topics. Initial searches on the topic yielded a wide variety of results, varying in relevance and focus. The use of the term ‘advocacy’ proved to be problematic given its different meanings in different settings. Conversely some relevant studies did not use the term ‘advocacy’, yet referred to very similar strategies and goals, but instead employed terms such as ‘policy reform’, ‘activism’, ‘lobbying’ and ‘campaigning’. The advocacy of particular interest in this study was mainly systemic or public advocacy and particularly advocacy that sought wider policy change.

After conducting an initial review of some key literature on advocacy that focused on its broad conceptualisation and contexts in which it is used, the focus was refined and literature was reviewed that addressed the following issues:

- NGOs/non-profit sector advocacy and the relationship with the state, including the development of formal agreements between the not for profit and state sectors;
- Advocacy and issue emergence/agenda setting;
- Advocacy and human rights;
- The role of advocacy in influencing policy change;
- Advocacy for children; and
- Advocacy and asylum seeker/refugee issues including pro-asylum advocacy.

The literature on advocacy was reviewed initially before framing the central research question for the research, and was useful in highlighting key gaps. These included the relatively limited literature on advocacy and policy change, using models of policy analysis. A considerable proportion of the relevant literature was reviewed again including new literature, with a focus on the following issues:

- The role advocacy plays in public policy agenda setting, including the use of models such as agenda setting;
- NGO advocacy interactions with the state and the challenges therein; and
- How advocacy operates within the asylum-seeker/refugee sector and what is specifically known about advocacy for asylum seeker children in Ireland or elsewhere.

Some of the key aspects of that literature and its applicability to the research question are highlighted in the following sections.

#### ***2.4.3 NGOs, Advocacy and relationship with the State***

Advocacy is often an important strategy employed by non-profit organisations outside the state, yet research on this area is relatively limited (Kimberlin, 2010). As Andrews and Edwards (2004) have pointed out, some scholarship in this area is developing in the three sectors of: 1) political science; 2) sociology; and the interdisciplinary field, of non-profit research. In this study, the focus is on advocacy that attempts to influence public policy, based on a collective interest, and therefore the relationship between the advocacy

organisations and the decision makers of the state are of crucial importance. Non-governmental or non-profit organisations are often engaged in providing services to groups in need, not provided by the state and may be in receipt of state funding and avail of certain tax benefits. This often leads to an increasing concern of organisations being unwilling to ‘bite the hand that feeds them’ when it comes to being critical of those that also fund them (Onyx et al., 2010). This reticence is what Onyx et al. see as leading to what they term ‘advocacy with gloves on’, which is non-confrontational and incremental rather than confrontational and demanding. This is a theme that resonates with many authors in various parts of the developed world, including Ireland and other parts of Europe, with the balance between relying on government funding and the sometimes necessary criticism of the State often causing difficulties for advocacy organisations ((Edgar and Lockie, 2009, Staples, 2007, Keenan and Montague, 2010, Oliver, 2008, Balassiano and Chandler, 2010). Attempts have been made in Australia, the U.S. and Ireland to limit the type and amount of resources devoted to advocacy activities by NGOs through indirect measures such as changing of tax laws (e.g. that do not allow charitable tax exemptions for organisations that dedicate a certain percentage of their resources to advocacy activities) and the controlling of the environment under which NGOs and the State can interact (Kimberlin, 2010, Keenan and Montague, 2010, Casey et al., 2010b).

Many political theorists however have asserted that advocacy is an essential function in any democracy. Kimberlin (2010, p166) describes its function as: ‘...by representing the viewpoints of minorities and disempowered groups, and by critically monitoring and pushing for changes in public policies, non-profit organisations serve as vital intermediary institutions that help maintain the quality of a democratic government and its responsiveness to the needs of all its constituents’. Advocacy is also associated with a connected civil society (Onyx et al., 2010), and is linked to both participatory and deliberative forms of democracy, which go beyond mere representation and have mechanisms in place to ensure that public are active agents and not merely subjects to be ruled. NGOs are seen as representing the interest of the ‘community’ in the social science division of society into three components of community, market and state (Staples, 2007). They have been described by Melville (2003) as indispensable intermediaries between community and government, carrying important information about the needs and preferences of a wide range of groups that would otherwise remain remote and

uninformed. A review of the academic literature on the role of advocacy groups in a democracy demonstrates a number of key points, including:

- Advocacy work is grounded in the premise that that social change occurs through politics and the power of the state can be moved to act on behalf of the people, with advocacy organisations articulating policy positions on behalf of the people (Reid, 1999).
- Unlike trade unions, which generally use paid professionals, NGOs often rely on mobilising networks of volunteers and the type of lobbying they are able to engage in is usually related to the type of organisations carrying out the work.
- According to Frumklin (2002), the legitimacy of advocacy is contained in the twin rights of freedom of association and freedom of speech. He maintains that organisations can advocate for any cause, as long as it is lawful.
- Other authors have linked non-profit advocacy to providing democratic legitimacy to what is termed as the ‘democratic deficit’ inherent in the representative form of democracy. They provide legitimacy by being involved in public policy processes that see citizens as essential to solving problems (Keenan and Montague, 2010).

Whilst much of the literature points to the positive role advocacy organisations can play in a healthy democracy, their role is also criticised by some who question their legitimacy, representativeness and some public choice theorists have described them as an anathema of democracy (Buchanan and Tullock, 1999). Concerns have also been raised in relation to advocating for rights or views of a minority, that may not be held by a majority and how advocacy can deal with Olson’s (1965) free rider problem of how many people benefit from the collective action of others.

Various Governments have also raised concerns about the role of advocacy in public policy formulation and the sphere in which the non-profit or NGO sector interact with the state has become contested (Staples, 2007). The relationship between the State and NGOs has been characterised along the following lines (Casey et al., 2010b, Keenan and Montague, 2010):

*The Anglo-Saxon ‘liberal model’*: This entails a strong community and voluntary sector based on multiple ethnic, religious, social and geographic entities. Government funding

and private donations and high levels of volunteering co-exist. Advocacy is based on the perceived strength of the NGO sector and their capacity to mobilise. This model is prevalent in the U.S., the UK and in Ireland to a certain extent.

*The Continental ‘corporatist’ model:* This model is based on the structuring of organisations into social ‘pillars’ that link government and organisations through the principle of subsidiarity. Advocacy relationships are channelled through corporatist arrangements. This was evidenced in the former partnership process in Ireland.

*The Nordic ‘social democratic’ model:* In this model, the state is relatively strong and NGOs are generally small member serving organisations with self-organising as a central principle. Advocacy arrangements are also channelled through corporatist arrangements.

Casey (2006) also points out that the move towards New Public Management models of public governance and the implementation of neoliberal policies has led to the increase in the contractual relationships over grant funding based relationships. This applies in the U.S., where non-profit organisations enter into complex funding arrangements with local/national government and foundations and advocacy is often not seen as an activity worthy of state subsidies. In some countries, notably in the UK, Australia, Canada and Switzerland this state/community relationship has been regulated through various forms of ‘compacts’, which seek to improve relations between the state and voluntary sector to their mutual advantage (Keenan and Montague, 2010). The arrival of compacts in some countries however has been seen as a double-edged sword, with NGOs sometimes feeling that they are sacrificing independence and freedom in an effort to be taken seriously by Government. As Staples (2007, p11) points out in relation to the Australian situation: ‘Overcoming a decade of public choice theory, the repression of advocacy and a culture undermining the legitimacy of NGOs will not be achieved by partnering with a Federal Government whose main interest is in the sector’s productivity/economic value’. She concludes that the NGO sector cannot ask any government to give it legitimacy, but rather that legitimacy comes from a model of democracy in which NGOs contribute to a vigorous public sphere in which ideas are contested and NGOs are valued for their social and democratic contribution.

This view could be seen as somewhat aspirational as the realities of how a democracy operates in practice can be messy and the extent in which civil society actors are active participants in the debate is often contested. The power held by the state and the



sometimes strongly held views of representative democracy over more deliberative or participatory forms may act as a barrier to participation by NGOs who are openly critical of such Governments. The subject matter of the advocacy, the nature of the issues, the manner in which they are brought forward and the particular section of government to whom they are brought all play a role in determining how such advocacy is received at government level. As discussed in the next section, the role of advocacy in the Irish context has recently been questioned and such issues have come to the fore in the debate which has commenced.

#### ***2.4.4 Advocacy in the Irish context***

In Ireland these issues have been debated in a comprehensive process involving a diverse range of organisations, called ‘the Advocacy Initiative’. A project report was compiled in August 2010 (Keenan and Montague), and it provides an overall literature review on the state of advocacy and challenges faced in an international context. It also contains results from detailed consultation with the sector on the state of play of advocacy in Ireland, the relationship with the State and the challenges facing the sector. The report makes it very clear also, that there is very little published academic research on this area in the Irish context.

The report is detailed and provides a first step in advancing the understanding of advocacy in Ireland and highlighting some of the main challenges. It draws on much of the work of Frumkin (2002) on the role of the non-profit sector. Some of the key points arising from the report that may be of relevance for understanding the Irish context for this study can be summarised as follows:

- The origin of the initiative grew out of a view that Government and senior civil servants were becoming increasingly hostile to advocacy and almost all interviewees (advocacy organisations and policy makers) accepted that State funding does impose some element of constraint on voluntary organisations in terms of how they approach their advocacy work.

- The ‘Community and Voluntary sector’<sup>13</sup> generally welcomed the idea of a formal Code of Conduct or a Framework of Understanding for managing the relationship between the state and such organisations. Policy makers had generally not yet engaged much with this concept.
- There appeared to be a preference by policy makers to have Community and Voluntary organisations more co-ordinated and organised, along more corporatist lines similar to the trade union movement. Whilst greater co-ordination was accepted as important by advocacy organisations, they felt the suggestion that an overarching organisation could channel their views was misguided, based on the diversity of interests they represented.
- A number of organisations (44%) had experienced explicit or implicit threats as a result of their advocacy activities. The children’s sector was however, mentioned as one area where there was positive engagement between the State and advocacy organisations.
- The policy makers pointed to skills and knowledge deficits in the advocacy sector, such as understanding the policy making system, understanding the ‘etiquette’ or unwritten rules in dealing with officials. They also expressed frustration at times at the seeming ‘never-ending critique of Government, some of which is quite personal in nature’. The need to build respectful relationships was emphasised.

Another Irish research report of relevance to the study is one commissioned by the One Foundation<sup>14</sup> on advocacy in the areas of children’s rights, immigrant rights and mental health (Hodgett and Sweeney, 2009). The report examines the investments made by the One Foundation and examines the relationship of the investments to the goals, shortcomings and potential solutions to address the gaps. Many of the organisations it focused on also participated in the present study. Some of the key findings of the report include:

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<sup>13</sup> Term ‘community and voluntary sector’ used in the report to refers to non-profit NGOs who may be involved in advocacy work. This term is frequently used in the Irish context to refer to voluntary or service provision organisations outside the State sector and the phrase ‘Community and Voluntary Pillar’ was the term used in the context of Social Partnership, which did not include all community and voluntary organisations.

<sup>14</sup> Philanthropic organisation that funds many advocacy organisations in this field and has a particular section dedicated to making ‘migrants rights real’. It has funded a substantial proportion of participants in the current study.

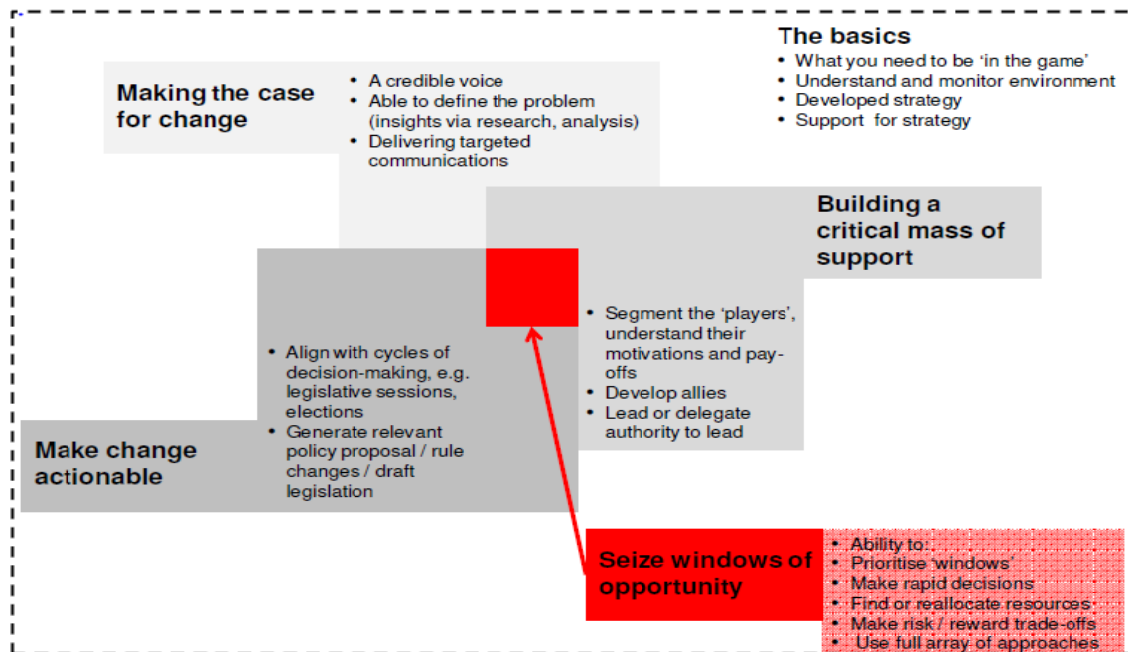
- Overall it was concluded that there was a shortfall between actual progress towards the goals and what is required to meaningfully reach them. It was also found that ‘generally, but not exclusively, current approaches are incremental, long-term, and heavily weighted towards winning commitments over implementation’ (Hodgett and Sweeney, 2009, p4).
- The report examined the potential of ‘breakthrough advocacy’ in which major achievements could be made and whether it was possible within the context of incremental advocacy. It was concluded that greater attention on advocacy was required if this was to be possible.
- A number of shortcomings in current advocacy approaches were identified. These included *inter alia* a limited connectivity between regional and national advocacy, a surplus of advocacy capacity and duplication in some areas.
- The environment for advocacy was considered to be a considerable constraint, particularly the relationship with government and its policy making processes.

They also found there was:

*A poor understanding by politicians of the advocacy undertaken by civil society groups, and a perception that many groups lack legitimacy in the political process. Among the grounds for this lack of legitimacy that interviewees have heard cited are lack of a membership mandate and lack of service provision experience (ibid, p6).*

The analysis of advocacy in this report was informed by the conceptual underpinnings of the work of Quinn Patton (2008) who developed a series of policy change models of evaluation, using policy change as the unit of analysis rather than the project. Similar to theories of policy change, an emphasis is placed in seizing windows of opportunity and he emphasises the need for ‘timely and opportunistic lobbying’ (p7). One of his models was adapted by in the One Foundation report to the Irish context and combined with analysis of their interviews to produce a model on how various advocacy strengths and capacities join together to create windows of opportunity for policy change. Whilst it was designed primarily to assist NGOs in devising more effective strategies, it is also a useful framework for evaluating advocacy that attempts to achieve policy change. The emphasis on ‘seizing windows of opportunity’ is of particular relevance and resonates with models of agenda setting and policy change. The report also placed emphasis on making change ‘actionable’ and providing realistic and actionable policy proposals or changes.

**Figure 2.4.4 Capacities for advocacy combine to create ‘windows’**



Source: Hodgett & Sweeney, 2009, Appendix F

It is to be noted however that the report did not provide the perspective of politicians and civil servants, which may be required to present a more complete view of advocacy and its influence on the policy-making process. Their perspective is included in this study and it is hoped that its inclusion will complement the work of that report.

Various reviews have been carried out in Ireland on the Community and Voluntary sector as a whole (Keenan, 2008, Donoghue et al., 2006, Harvey, 2009a, The Wheel, 2012) and whilst it is beyond the scope of this study to review them in much detail, some broad points emerging from these studies on the nature of the sector that may have relevance for this study include:

- There appears to be a relatively strong and vibrant community and voluntary sector in Ireland and a recognition by Government at an official level in papers such as the White Paper *Supporting Voluntary Activity* (2000). This paper gave formal recognition to the role of the sector in contributing to a vibrant, participative democracy and civil society. Many of the recommendations of the White Paper however were not implemented, such as the voluntary activity units in Government Departments and the implementation group was eventually

disbanded (Donoghue et al., 2006). Tensions also arose post 2002 in the voluntary and state relationship, with funding withdrawn from organisations perceived to be critical of government and projects in the Community Development Programme were instructed not to employ policy workers (Harvey, 2009a).

- Whilst the sector can be considered strong and vibrant and level of volunteering are high in Ireland, the sector is also very diverse and unconnected, with no overall co-ordinating body. Various associations or networks exist in relation to certain sectors, such as the Disability Forum, the Children's Rights Alliance and Dóchas for development aid. There have been various other attempts to unite the sector as a whole, such as the initiative The Wheel, which has a membership of 800 organisations.
- The Social Partnership process is now largely defunct and rather than the former tripartite arrangements, the public sector unions and Government meet under the guise of 'social dialogue' and the views of the Community and Voluntary Pillar are channelled through the National Economic and Social Council (NESC). NESC has called for more formal structuring and monitoring of standards in the human services sector, including a definition of formal relationships with the Government (NESC, 2011).
- The environment in which the sector operates has changed in a number of ways over the last decade. There have been changes in the funding environment, with a swing from a reliance on EU funding to more Exchequer funding and more recently a curtailment of such funding due to Government cutbacks during the recession. The sector also raises significant amount of its own funding through the growth of professional fundraising and philanthropic support has also been growing. The sector has also become more professionalised, with the recruitment of professional and specialised staff, more governance and accountability and the publication of good practice guides (Keenan, 2008). On the other hand, such new funding arrangements have also been linked to a definition of the state and voluntary sector relationship around the provision of services, with examples including Service Level Agreements (SLA) that preclude funds being used 'to obtain changes in the law or related government policies, or campaigns, whose

primary purpose is to persuade people to adopt a particular view..' (Harvey, 2009b, p31).

- The role the sector does and is expected to play (by Government) is somewhat unclear and Keenan comments on the ambiguity between the Government supporting and encouraging philanthropy and active citizenship on the one hand, yet expressing a desire for increased rationalisation and reduction of the sector on the other. He goes on to state that if Government does not take a stance:

*...statutory funding agencies are likely to continue to view individual community and voluntary organisations only within the context of their role as, for example, contractual service providers. The relationship is therefore defined by the (legitimate) imposition of administrative controls to assure compliance and accountability without the benefit of a wider and visionary expression of the value of voluntary activity to the wellbeing of society as a whole (Keenan, 2008, p33).*

As the findings from such reports demonstrate, the Community and Voluntary sector is currently at a crossroads in Ireland in terms of its relationship with the State and the role it can play in terms of advocacy for the marginalised. The lack of clear structures and the somewhat muddy space in which such activities take place, can lead to a somewhat confusing environment and advocacy that is often *ad hoc* and very dependent on the building of good interpersonal relationships with particular individuals.

#### ***2.4.5 Strategies employed by advocates***

Inherent in any attempt to define what we mean by advocacy is a need to look at what types of activities constitute advocacy, what their purpose is and what strategies can be considered effective. Narrow definitions of the concept of advocacy limit it to lobbying or attempting to influence legislation or policy by directly communicating with government officials or urging others to contact their elected representatives (Avner, 2002). Others define advocacy in a much broader sense and a review of some of the literature on advocacy activities indicates that it can also include the following: Increasing civic participation and awareness raising of issues; providing opportunities for disempowered and marginalised groups to be heard by decision makers; public education and awareness raising campaigns that seek to influence public opinion; putting forward research to support an argument; using the media to support particular causes; sector co-ordination

and networking and more activist strategies such as staging protests and sit-ins (Kimberlin, 2010, Casey et al., 2010a, Andrews and Edwards, 2004). There is also a growing interest in on-line advocacy and the role of new technologies in the development of advocacy networks (Charli Carpenter and Jose, 2012). The types of strategies or tactics used are numerous and there are various ways in which they can be categorised.

A useful distinction is made by Walker (1991), who defines strategies used by advocates as ‘insider’ or ‘outsider’ strategies. Insider strategies are in general geared directly towards decision makers and include lobbying, meeting with officials/elected representatives, attending meetings etc. Outsider strategies on the other hand refer to generating publicity and attempting to mould public opinion. Andrews (2001) (quoted in Andrews and Edwards, 2004) found that local civil rights movements had more influence on the funding and content of poverty programmes when they were able to engage in direct negotiation with government agencies as well as disruptive protest. Many studies lead to the general claim that organisations succeed best when they can exert influence through multiple mechanisms. More successful advocacy has also been linked with larger organisations, with greater budgets and less resource dependency on the external environment (Schmid et al., 2008). Andrews and Edwards (2004) also suggest that in the U.S. context non-profit advocacy groups enjoy more modest levels of access to government officials than other lobby groups (e.g. businesses, unions). This may also resonate in the Irish context, where trade unions and business leaders featured more prominently in the social partnership process (Adshead, 2011).

Berry (2001) examined the influence of what he terms ‘citizen advocacy groups’<sup>15</sup>, who are a powerful political force in the U.S., with much more influence and congressional time than other traditional non-profits and other interest groups. He concedes that citizen advocacy groups represent the interests of many middle class Americans who can contribute significant funds to supporting them, but nevertheless indicates that they offer a useful insight into which factors lead to effective advocacy. He identifies three key attributes: (i) staying Power and the ability to stay with an issue and understand the long-term evolutionary nature of policy making, concluding that it is necessary to stay in the trenches if lobbying becomes trench warfare; (ii) effective advocates need to develop expertise, through having dedicated staff who can specialise and the prioritisation of

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<sup>15</sup> These are organisations whose *raison d’être* is lobbying, representing interests such as environmentalists, feminists

research; and (iii) advocates need to be organised for action and know where to direct resources. It is not known whether these type of citizen advocacy groups have a much stronger influence in the Irish context, but it could be claimed that the contexts are very different and the large-scale federal nature of American policy making and the emphasis on the powerful lobbying of interest groups is very different to the smaller, more personalised and less pluralist model that operates in Ireland. However, the three key attributes identified are a useful starting point for examining strategies that lead to effective advocacy.

The context of Australia also contains some interesting insights. Some have pointed to the need for advocates to tailor their tactics and language in approaching advocacy. Onyx et al. (2010) refer to the need for ‘advocacy with gloves on’ and the need to adopt particular manners in undertaking advocacy in Australia. They conducted an in-depth study of advocacy organisations in NSW and Queensland, which showed an overall trend towards institutional rather than radical advocacy action, and issues such as language and the way in which advocacy is conducted emerged as important. Respondents spoke freely about the word ‘advocacy’ during the interviews, but stated that they shied away from using the term in negotiations with the government. It was concluded also that advocacy strategies were predominantly shaped within the context of an organisation’s relationship with government. As one respondent in the study stated: ‘...to be an advocacy organisation. That doesn’t mean throwing Molotov cocktails. It means constantly putting yourself in situations where you have the capacity to either inform public opinion or influence government policies’ (p52). This theme resonated in the Irish report on the Advocacy Initiative (Keenan and Montague, 2010), where the issue of building relationships emerged as one of the most important themes of the study and both sides spoke of the need to develop mutual respect. This presented challenges for both the advocacy organisations who complained of sometimes feeling threatened and cited difficulties with public officials who frequently change roles as well as the policy makers who talked of a ‘lack of respect and understanding’ and the sometimes personal nature of the critiques made. This leads to the question of whether personal relationships are the most crucial factor in effective advocacy in Ireland and whether they carry more weight than factors such as the political environment and the government’s receptiveness of advocacy, and the particular strategies employed by advocates. The report of the Advocacy Initiative would seem to suggest that they are a crucial factor particularly from the policy makers’



point of view and the suggestion of developing ‘rules of engagement’ around how best dialogue between the organisations and policymakers should be conducted appears to be a useful one.

Another problematic concept is defining what we mean by the effectiveness of advocacy and tracing the impact of advocacy on the policy making process. Andrews and Edwards (2004) identify two major challenges in trying to gauge the influence of advocacy organisations: (i) conceptualising influence and (ii) accounting for additional explanatory factors and rival theories. They contest that the strongest basis for examining the influence of advocacy is through measuring various dimensions of the policy process. As discussed earlier, the first dimension mentioned is agenda setting. A further point that the authors raise is whether the actions of advocacy organisations influence the formal (government) or the public agenda. The links between advocacy, agenda setting and issue emergence are discussed in the next section.

#### ***2.4.6 Advocacy, agenda setting and issue emergence***

As pointed out in the previous section, agenda setting is one area in which the influence of advocacy can be traced. Some studies have attempted to link advocacy, social movements or interest groups and agenda setting (Bereni, 2009, Baumgartner et al., 2009, Hojnacki et al., 2012) at both theoretical and empirical levels. There is a broad recognition of methodological challenges, with causality and rival factors often difficult to determine. The influence of agenda setting on advocacy has also been studied in the case of French feminist movements, leading to the conclusion that success in agenda setting lead to greater co-ordination and alignment of advocacy actors (Bereni, 2009). A review of interest group scholarship between 1996 and 2011 (mainly in the U.S.) noted that organisations were more actively engaged in debates over more salient issues, with a potential feedback loop between issue salience and the interest of advocates (Hojnacki et al., 2012). Pro-asylum advocacy however does not feature as such a salient issue in general terms and stronger moral and motivational framing may be used to attach salience to the issue.

Andrews and Edwards (2004) note that the research design of studies attempting to study the broad influence of advocacy organisations is often weaker than studies focusing specifically on one policy domain ‘where rival explanations can be tested more systematically and specific mechanisms of influence can be observed’ (p492). This study

is located within a specific policy domain, with a case study type approach. Nonetheless, the process of linking advocacy and agenda setting is challenging, with some of the challenges in doing so in this context summarised below:

- Whilst particular ways of advocating may be attributed to certain types of influence, the broader role of the social and political environment cannot be ignored and it is important to investigate further what influence such a context has on: (i) advocacy organisations and their strategies; (ii) policy makers; and (iii) the space in which communication and negotiation between the two is carried out.
- The role of the media in influencing public opinion the formal agenda is sometimes underplayed. The model proposed by Kingdon has also been criticised for its relatively low weight it provides to the role of the media (Hill, 2009). Research on the role of the media has pointed to factors such as the short term issue attention cycle, the focus on particular events rather than issues and stories that can present advocacy organisations in an unfavourable light, thus having a negative impact (Danielian and Page, 1994).
- The policy process is not necessarily a neat process broken into clearly defined stages and the notion of ‘agenda setting’ is a socially constructed term to refer to a conceptual process of how issues become issues in the first place and how they are placed on the public agenda. Delineating the exact stage in the policy process where advocacy can exert influence can be problematic. It is necessary to be mindful of this and to examine during the study whether such a stage can be clearly identified and whether this is the most appropriate stage to assess the influence of advocacy. It is more difficult to assess what happens after such issues are put on the public agenda, and as Kingdon (1995) points out, policy entrepreneurs who may raise issues are not granted ownership of the issue once it has been raised.

Many studies have been conducted on the area of issue emergence and why some issues become important for actors such as the media, the general public, advocacy organisations and government (Birkland, 1997, Grogan and Gusmano, 2007, Carpenter, 2007, Charli Carpenter and Jose, 2012). A study of issue emergence in transnational

advocacy networks by Carpenter (2007) summarised the main conditions attributed to issue emergence, namely the attributes of issues themselves, the presence of political entrepreneurs (similar to Kingdon's concept of policy entrepreneurs) and a favourable norm pool in which a new issue may be aligned. It was concluded however, that such conditions were not theoretically adequate and little work had been done on understanding the dynamics of issue emergence and why some issues are or are not accepted as international issues in the first place. It was thus suggested that the application of American politics literature (Baumgartner and Jones, Kingdon) may be useful to apply in this regard. This could help clarify questions such as what makes individuals gravitate towards unnoticed problems, how political entrepreneurs attract the attention of network gatekeepers and under what conditions do they adopt new issues onto their agenda space.

Advocacy and agenda setting have also been linked through particular 'framing strategies' adopted by NGOs in attaching moral weight to their arguments. Risley concluded that 'by devising effective framing strategies, advocates increase their chances of participating in the agenda setting, formulation and adoption phases of policy-making' (2011, p664). This is termed 'motivational framing', which is seen as effective only if linked to positive messages and realistic solutions.

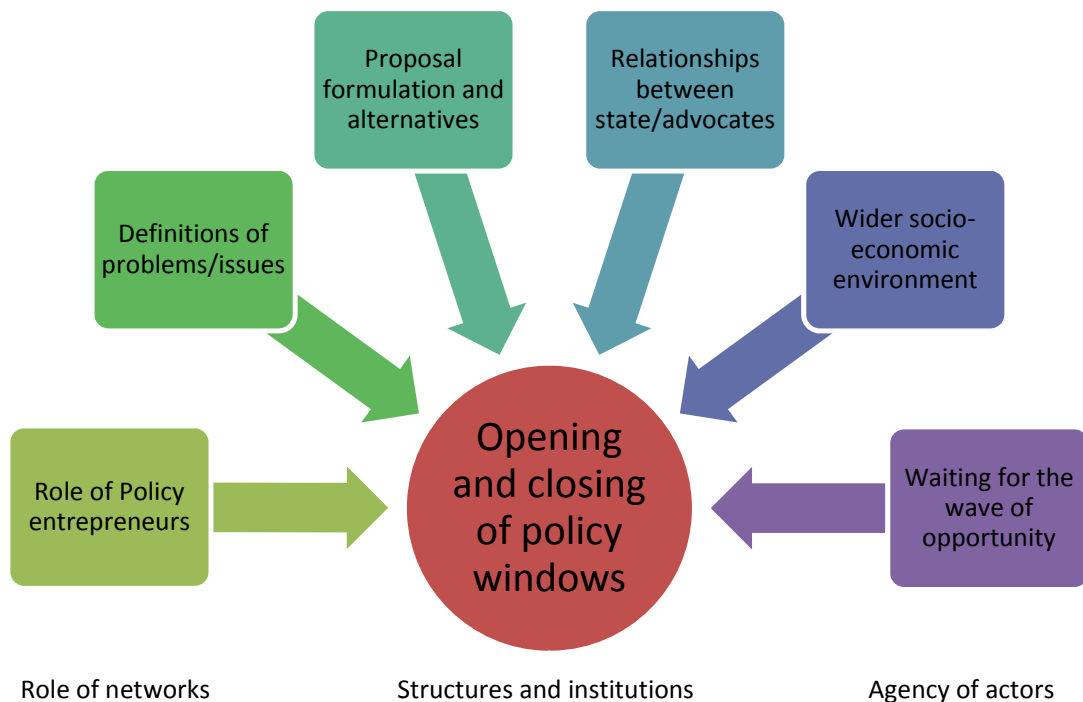
#### ***2.4.7 Conclusions: Linking advocacy and agenda setting***

Advocacy is a broad and developing topic of enquiry, with a body of literature that is relatively incohesive and disparate. A review of some major studies has however revealed a number of insights of relevance to this study. These include understandings of what advocacy is, how it works, contexts in which it operates, role of the not for profit sector, effectiveness of strategies, role of wider-socio-economical contextual factors, influence of the media and outside interests, relationships between the state and the not for profit sector and ability of advocates to influence public policy. It has been asserted that there are limited studies that effectively assess the influence of advocacy on the policy-making process (Andrews and Edwards, 2004); and few draw on political science models of policy analysis (Carpenter, 2007).

The figure below is a conceptual map of some of the linkages between the model of agenda setting and the role of advocacy, adapted from Kingdon's model and influenced by some of the key literature on the role of advocacy and how it can be linked to policy

analysis. Key elements of Kingdon's model of relevance here include the role of policy entrepreneurs (participants), how issues and problems are defined and the formulation of policies and alternatives. An element missing from Kingdon's model but included here is the nature of the relationship between the state and the outside interest groups, in this case the not for profit sector. The wider socio-economic environment, which partly covers the 'politics' stream referred to by Kingdon and is broadened to include public opinion and the prevailing socio-economic climate. Kingdon's metaphors of surfers waiting for a wave on which to attach their policy proposals can also be adapted to the role of the advocates seeking ideal opportunities to launch their campaigns and proposals. Similarly the opening and closing of policy windows highlights the ways in which advocates of particular proposals can push for their ideal solutions if constraints are not too severe (Kingdon 1995, p165). Policy windows can equally close when such constraints build up and advocates may no longer have opportunities to push their agenda. The three cross-cutting themes of networks (as adapted from theories on policy networks), structures and institutions as well as a focus on the agency of actors are also incorporated.

**Figure .4.7 Key concepts in linking advocacy and agenda setting**



## **2.5 Specialist advocacy for children**

The area of advocacy for children both at individual and systemic levels is growing in recognition and some of the specific concerns in relation to advocating for children have been highlighted. The use of the term advocacy for children can be problematic as it carries a very broad range of meanings. Most traditional models of advocacy have been dominated by services for adults and in recent years, there has been a growth in advocacy services and approaches for children and young people, particularly those under the state care system. These have often emphasised giving the child a ‘voice’ in matters that concern them, in line with Art. 12 of the UN CRC, which states that ‘Governments shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child’. Advocacy is seen as a vehicle that allows young people to seek to redress the power imbalance that exists between them and the social welfare professionals and to promote children’s and young people’s participatory rights (Boylan and Ing, 2005).

Advocacy for children often developed in the context of children in some form of public care and often became associated with children in need (Oliver, 2008). The relationship between care, including the ‘best interests of the child’ principle and advocacy and rights is a delicate one, especially as many care models have been developed by adults who claim to know what is best for children. The emergence of children’s rights has developed alongside models of care and Barnes (2007) divides the two perspectives into that of the ‘liberationist’ model of children’s rights, which challenge the view ‘that adults necessarily act in the best interests of children and deem it unfair to deny a child the opportunity to participate in decisions about the future’ (p142). Many studies on advocacy and children and young people raise the dilemma advocates face, between the sometimes conflicting goals of representing the wishes and acting as the voice of the child on the one hand and being guided by acting in the best interests of the child on the other (Boylan et al. 2005, Barnes 2007)

Much of the academic writing and reports on advocacy for children however have centred on advocacy in its individual form, where adults attempt to represent the interests and voice of the child in matters that concern them (Oliver and Dalrymple, 2008a). There has however been a growth in NGOs in Ireland and elsewhere that specialising in promoting the rights of children at a more systemic level, evidenced for example in the recent

campaign for constitutional change on the rights of the child. Such NGOs have often grown from service providers who may have been involved in individual level advocacy, which in turn led to advocating at a more systemic or collective level when it became apparent that certain patterns were being followed or various rights were not being enjoyed by some groups of children.

## **2.6 Specialist advocacy for refugees and asylum seekers**

### **2.6.1 Overview**

There has been considerable growth in the last two decades of NGOs advocating specifically for the rights of asylum seekers or refugees<sup>16</sup>, both in Ireland and internationally. Reasons given for this growth include the increase in NGOs as service providers at a lower cost than for Governments (through which such NGOs have also sought to seek wider change for the groups they work with); an increase in asylum seekers seeking asylum in the Western world and thirdly it has also been asserted that populist governmental policies of failing to comply with international human rights standards has given rise to the emergence of lobbying and NGO groups opposed to such policies (Lester, 2005). Furthermore the linkages between turning ‘distant wrongs’ (conflict situations in distant territories) into ‘local rights’ (rights to seek asylum, socio-economic rights etc.) have given rise to a new form of activism, whereby granting protection in one’s own country to those fleeing oppression is perceived to have greater effect than faraway acts of solidarity (Bhabha, 2002). Asylum seekers who arrive in a new country may experience additional vulnerability as they negotiate their way through an unknown system, which may be excessively bureaucratic and punitive. Moreover there is a heavy onus on asylum seekers to prove their case rather than for the authorities to disprove it (Cambridge and Williams, 2004).

Advocacy that is pro-asylum often operates against increasingly draconian measures of deterrence against asylum seekers and undocumented migrants. Stronger controls and sanctions exist within the EU. Under the 2002 EU Directive and Framework Decision, Member States were required to create offences of aiding the movement or entry of non-EU nationals. Pro-asylum advocacy within the EU is become riskier and some studies have reported how pro-asylum NGOs have felt threatened and have sometimes been the

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<sup>16</sup> The terms asylum seeker and refugee in this section are sometimes used interchangeably as reflected in the literature, much of which tends to use the broader term ‘refugee’ when talking about both groups and ‘asylum seeker’ when referring to the specific group.

subject of police surveillance (Fekete, 2009, Hintjens et al., 2011). Funding and resources for such organisations is often precarious and charities legislation in various EU countries often precludes those with charitable status from engaging in such political campaigning (Hintjens et al., 2011).

### **2.6.2 *Challenges of refugee advocacy***

Advocacy for asylum seekers and refugees contains many inherent challenges that distinguish it from other forms of advocacy. A review of a range of literature on asylum seeker advocacy in various Westernised countries highlighted some particular challenges that are summarised below:

- NGOs in this area were traditionally seen as primarily having a role in service delivery as implementing partners and not as ‘intellectual partners’ in the development of policy. This paradigm however, is shifting particularly through international processes whereby NGOs are represented through various UN and European fora and are consulted on matters of policy and human rights monitoring and implementation (Lester, 2005).
- Bhabha (2002) speaks of the tensions inherent in asylum advocacy, which she terms ‘legitimizing gatekeeping’ whereby they participate in the filtering process of sifting ‘worthy’ and ‘unworthy’ migrants (p160). This is unlike advocacy for other human rights issues such as working with victims of torture, the elderly, people with disabilities, where advocates are not acting as intermediaries in a global migration regime.
- States are frequently faced with the challenge of meeting populist demands for migration control and increased racial homogeneity and public opinion may not favour more lenience or improved conditions for asylum seekers. Advocacy for asylum seekers (who are largely disenfranchised) may run contrary to popular opinion among the voting population.
- As noted above, suspicion and surveillance of organisations who are pro-asylum can make advocacy for such organisations difficult and in some countries such as

France, underground advocacy movements have emerged (Hintjens et al., 2011, Allsopp, 2012).

- Whilst improved socio-economic and civil and political rights are very important for asylum seekers whilst awaiting their claims, the ultimate desire of almost all asylum seekers is to have their claims recognised and to be granted refugee status or other forms of leave to remain. Bhabha (2002, p161) summarises the situation as:

*Thus while thousands of applicants gain refugee status or some form of subsidiary protection, tens of thousands live in a limbo of illegality without access to basic civil rights, or are incarcerated for years as they await a decision on their cases, and hundreds of thousands are rejected, unable to gain access to a forum where the adjudication of refugee protection can be made in the first place. Advocates are scarce and most asylum applications end in failure.*

- It has been noted that the advocacy that may ultimately matter the most is legal advocacy, which may assist in the granting of a favourable decision (*ibid*). Various studies have shown that a more expedient asylum process and positive outcomes matter the most to asylum seekers (Uchechukwu Ogbu, 2011, FLAC, 2009, Fell, 2004). Much advocacy for asylum seekers in the voluntary and NGO sector however is very limited in terms of achieving these goals, which ultimately rest in the arms of the State. They can however shine a spotlight on such issues, raise them in front of the international community and highlight the impact of such measures.

### **2.6.3 Theoretical underpinnings of refugee advocacy analysis**

State control and subjugation can be at its strongest and most forceful in the area of asylum and immigration policy and many authors in this domain use Foucauldian concepts to describe this relationship. This includes notion such as the way in which the state exerts its power and knowledge as a form of control (Malkki, 1995, Judge, 2010) and the concept of biopolitics (Ong, 1995, Judge, 2010). Biopolitics refers to the shift in the means of rule towards an absolute power to take life and through powerful means concerned with the body. It refers to a mode of governing in which the ‘utility and docility’ of populations is increased through concern with welfare, bodies, health and habitation (Foucault et al., 2007). Judge (2010) adapts this theoretical perspective in assessing such forms of governmentality vis-à-vis young male asylum seekers in the UK, both from the perspectives of the state and society. Her study of advocacy for such



asylum seekers led her to conclude that refugees in the UK are understood within a crisis identity and identified dominant discourses of trauma, suffering and otherness; talented and deserving and threat and the male body in which young male asylum seekers in particular were often marginal to dominant advocacy discourses. This was also linked to young males not fitting neatly into children's rights discourses of vulnerability and innocence either. Refugee advocacy can also be understood in the context of potential for resistance and social change in sites of constraining environments (such as asylum reception centres or refugee camps), a concept developed by Malkki (1995) who stresses the role and agency of refugees themselves in organising their own resistance.

The notion of the 'racial state', as formulated by Goldberg (2002) is also worthy of mention. Under his thesis modern states are essentially 'racial states', which links race and homogeneity, the state and racial exclusion and how they manifest at conceptual and practical levels (*Ibid*, p5). He perceives states as racial

*... because of the structural position they occupy in producing and reproducing, constituting and effecting racially shaped space and places, groups and events.. They are racist to the extent such definition, determination and structuration operate to exclude or privilege in or on racial terms... and reproduce a world whose meanings and effects are racist' (Ibid, p104).*

His theories on the racial state have been adapted by a series of authors, writing on the manner in which states control immigration, with Lentin (2007) using it as a lens to argue that the state has been the leading actor in creating anti-immigrant sentiment in Ireland and that it favours labour migrants, whilst 'racialising all other migrants' (*ibid*, p623). Whilst the concept of the racial state has merit in understanding some of the racially motivated actions of certain elements of the state, it is not considered sufficient here to condemn all actions, effects and motivations of state activity in this area as stemming solely from a desire to keep racialised others out. Policy-making in the area of asylum and immigration is complex and does contain elements of control, subjugation and excluding many categories of people. I would however contest that the state cannot always be held as the sole culprit in enforcing such exclusions. Firstly, conceptualising the state as a single entity with its own particular agendas can be problematic and drawing on Foucauldian perspectives, it can be perceived as one of a series of governing strategies (Hay et al., 2006). Secondly, the broader role of public opinion, media, private bodies and other institutions and mechanisms should not be dismissed and research has shown that

policy makers are strongly influenced by public opinion in this domain (Integration Centre, 2012). Thirdly, and particularly in relation to this study, basing the analysis on a pre-conceived notion of a racially motivated state could lead to some misleading assumptions and the inability to view other factors that influence the process of policy-making in this area. Whilst the notion of the racial state is used as an informing concept in the analysis, it is important to broaden the scope and view policy-making within its wider context.

A further conceptualisation of how the state makes laws and enacts policies that exclude particular groups is the notion of the 'state of exception'. The term was first coined by the philosopher Giorgio Agamben (2005) to refer to the increased power structures of governments in perceived times of crisis. This can lead to the investment of power in a government or a wing of it that allows it to operate outside of the laws. During such periods, some forms of knowledge are privileged and believed, whilst others are not (*ibid*). Such a concept has been used by Hintjens et al. (2011) in relation to pro-asylum advocates who challenge the 'state of exception'. Such advocates are perceived to hold a shared injustice frame or worldview based on the notion that cruel policies seen as necessary for deterrence are inhumane and unjust. They view the state of exception as 'illegitimate, and involves impunity for state and corporate crimes against vulnerable people' (*ibid*, p213). This worldview is based on notions of solidarity, justice and a respect for human rights laws and principles. It seeks to challenge state views based on deterrence and control. Such a conceptualisation is relevant to the present study in the sense that it sheds light on the notion of how reconciling such different worldviews can be problematic and challenging. Such a theory is broader than that of the racial state and powers are attributed to states on a basis that may include but goes further than racial motivations.

#### ***2.6.4 Intersection of refugee advocacy and human rights***

The next chapter analyses some of the human rights claims made by advocates and assesses the role of human rights in protecting the rights of asylum seekers. Human rights laws and norms are frequently used by advocates in seeking policy and legislative change to improve the lives of asylum seekers and refugees. As elaborated in the next chapter, human rights law at a global level is relatively thin on specific obligations of states

towards asylum seekers, other than the broad obligations set out in the 1951 Convention. Advocates instead often invoke more general human rights law, emanating from various UN Conventions protecting both civil and political as well as social and economic rights. Asylum seekers, it is claimed have rights on the basis of their humanity and their presence and right to reside in a country whilst seeking to have their claim for asylum or protection recognised.

Tensions can arise however in invoking universal human rights law to advocate for and protect asylum seekers. Asylum seekers by nature often have a somewhat blurred legal status, outside the realms of citizenship, not entitled to long-term residency and in some cases stateless (Bhabha, 2009). Human rights law relating specifically to refugees was mainly defined in the period post World War II, yet there have been enormous advances in other areas of human rights law relating to areas such as children's rights, gender, displacement and environmental disasters. Bhabha (2002, p158) summarises the challenge for current asylum advocates as:

*(they)...thus have to position themselves as a distinctive species of human rights activist, operating within the defined constraints of a somewhat antiquated normative framework but in the face of fast-changing, cutting edge, and compelling situations of human rights abuse and need.*

As noted earlier, challenges also exist in seeking to convince states that asylum seekers should have access to universal human rights protection in the face of policies that exist to act as deterrents to future asylum seekers (Cambridge and Williams, 2004). A study of asylum advocacy in Australia where a vast range of punitive measures against asylum seekers existed, showed that such policies gave rise to a new group of advocates who lobbied for a more humane society more respectful of human rights and one in which 'asylum seekers humanity is viewed as part of a common humanity' (Gosden, 2006, p7). The circumstances, which gave rise to such a surge in asylum advocacy however were relatively extreme and the events surrounding the refusal of the Australian Government's refusal to allow asylum seekers aboard the ship *Tampa* to land gave rise to considerable international criticism (*ibid*). In situations such as Ireland however, where no particular single or extreme events have taken place, it can be challenging to successfully invoke human rights law as having direct applicability towards the reception conditions of asylum seekers.

It has also been noted that studies on the protection of human rights have tended to concentrate on the legal-normative perspectives ‘without addressing the social interplay between the civic actors who make these claims, and the government institutions that are obliged to answer them’ (Handmaker, 2009, p7). This shortfall is partly addressed in Handmaker’s book on civic-state interactions to protect refugees in South Africa, in which he examines what he terms ‘civic state interactions’ to protect refugees by formulating three hypotheses. These are that firstly (civic) advocates’ capacity to promote state accountability is linked to structural changes in the normative legal framework (both national and international). This may also apply to wider structural changes in the socio-economic and political context and their impact on policy-making. Secondly he proposes that if advocates want to be strategic in their attempts to increase state accountability, they need to respect the boundaries that define the structural relationship between them and the state. This theme also resonated in the findings of the *Advocacy Initiative* in Ireland (Keenan and Montague, 2010), in which relationship and boundary issues between the advocates and the state sector were considered important. His third hypothesis was that civic actors play a crucial role in ‘mediating the translation of international legal norms into local contexts’ (Handmaker, 2009, p8). This may also have significance in the present study where advocates at the local and national levels draw on international legal and human rights norms to put pressure on the national government and translate them into more local and context specific terms. Whether they are successful in ‘mediating their translation’ and using them as tools to increase state accountability is explored in the study.

#### ***2.6.5 Advocacy for Refugee and Asylum-seeking Children***

The conceptualisation of refugee and asylum-seeking children in much literature and advocacy material often concentrates on notions of vulnerability, victimisation, suffering and trauma (Vitus and Liden, 2010, Christie, 2003, Dolan and Sherlock, 2010). On the other hand, an increasing number of studies focus on the agency of refugee children as they navigate their way through complex journeys both pre- and post-arrival (Bhabha, 2009, Judge, 2010, White, 2011). Watters (2008, p20) cautions against taking the category ‘refugee children’ as an uncritical basis for research and highlights the need to examine the contexts in which the category arises and the various administrative procedures within which it functions. This also includes examining policies directed towards refugee children from perspectives such as how are they constituted, which

public bodies are responsible and how do discourses of assimilation and integration inform practices. As noted in the next chapter, policies in Ireland directed towards asylum seeking children can be seen as exclusionary on the one-hand through the physicality of exclusion in designated hostel accommodation and the limited resources allocated to families. On the other hand, policies towards children in general operate within a 'mainstreaming environment' in which globalised services are offered and targeted supports are minimal, thus carrying some elements of assimilation.

Bhabha coins the term 'Arendt's children' to refer to a broad category of children, including those who are stateless, asylum seekers and unauthorised and poses the question of whether they have 'the right to have rights' (Bhabha, 2009, p416). She identifies a complex myriad of barriers to the realisation of their rights in the political, legal and enforcement spheres and notes the pervasive climate of suspicion towards such children in developed states and cites the extremely low rates of recognition for child asylum application rates in the UK as an example (*ibid*, p430). One of the difficulties in advocating for asylum seeking children can sometimes be their invisibility and sometimes muddled legal, political and social status. They can straddle between the binary categories of citizen or non citizen; child or adult (age assessments have become a contested practice, in which the outcome carries important consequences (Watters, 2008, p68)); status of child first and foremost or seen by virtue of the immigration status (Judge, 2010); and victim or perpetrator (unaccompanied children may be referred to as 'stowaways', 'illegals' or 'criminals' (Watters, 2008)). Public opinion on the 'deservingness' of asylum-seeking children may vary, with advocacy on their behalf often portraying them as victimised. A number of authors have referred to how asylum-seeking and refugee children are easily 'othered', with their identity defined through their persecution (Nyers, 2006, Judge, 2010). Judge (2010) also points out how gendered advocacy and images of vulnerability are used and how pictures of women and children are often used as images of female and child helplessness.

Advocacy strategies for asylum-seeking children may be grounded on the basis of them being children first and foremost, often within a universal child rights discourse, based on the inalienable rights of the child. Alternatively advocacy may be located within the immigration sphere, whereby better conditions and guarantees of rights are sought for all within the immigration or asylum system, of whom many are children. These divergent

approaches are explored further in the analysis of the data on advocates' strategies and how they have developed over time.

#### **2.6.6 Conclusions**

Advocacy seeking change for asylum seeking children and families operates within a wider context and is influenced by a range of factors. In exploring the influence such advocacy has on policy-making and putting issues on the policy agenda, cognisance also needs to be taken of specific factors particular to advocacy for this particular group. This includes examining whether such advocacy is located within the children's rights/welfare or immigration sphere, the impact of public opinion and overall levels of sympathy with this particular group, how international human rights law is and can be used to make states accountable in this area and the challenges that entails. Some of the Foucauldian concepts in relation to refugees, such as biopolitics and governmentality are also useful in terms of examining common discourses of refugees and asylum seekers and how they are portrayed both by advocates and the State. The concept of the racial state is relevant in this study and several authors have attempted to utilise it in their analysis of immigration and asylum policy-making. The concept of a 'state of exception' however, offers a broader framework for how a state makes laws in perceived times of crises that exclude and may be outside the realms of normal law and policy-making.

### **2.7 Chapter conclusions**

The relevant literature pertaining to this study was outlined and analysed in this chapter, with consideration given to its relevance in the data collection and analysis. This study explores actors' perspectives on the role of advocacy in agenda setting, within the context of advocacy for children and families in the Direct Provision system. The theoretical and empirical studies it draws on are therefore multi-faceted. From a conceptual perspective, the study seeks to link the processes of agenda setting in policy making and advocacy. This involves linking conceptual ideas on policy making and agenda setting and perspectives on advocacy. The framework on agenda setting as outlined by Kingdon (1995) offers a useful perspective on understanding the streams involved in setting agendas in policy making and draws attention to how policy making is not necessarily a rational process and is also driven by random events and the collision of multiple of actors and processes. This framework however, is by no means the exclusive perspective

adopted in this study and its many limitations are noted. Other perspectives of policy analysis are explored and theories such as policy network analysis provide another relevant dimension on how actors join together and through various networks include and exclude components or players in the process.

This chapter has also focused on advocacy, both conceptually and empirically. Conceptual understandings of advocacy, whilst limited are growing, but difficulties exist in relation to a common understanding of the term which has multiple meanings. The study focuses particularly on systemic advocacy related to policy change, which would benefit from perspectives of the policy making process and the role of various actors in influencing it. The current body of literature on advocacy is relatively inter-disciplinary and much of it focused on understanding the practice and evaluation of the impact of such advocacy. It is hoped that this study will further develop the conceptualisation of advocacy in this field and how it relates to agenda setting and other theories of early policy making analysis. Some of the elements linking agenda setting are elaborated here, and drawn upon later in the thesis in the analysis of the data.

The particular context for advocacy in this study is noteworthy and it straddles the realms of advocacy for children and what is commonly termed pro-asylum advocacy. Systemic advocacy for children is relevant in terms of advocacy that takes a child rights or welfare perspective, which ascertains especially to organisations in the children's as opposed to the immigration sphere. Advocacy that is pro-asylum or concerned with refugees may also carry its own challenges. Various analytical perspectives may be relevant, including the notion of a racial state (Goldberg, 2002) and challenging the 'state of exception' (Hintjens et al., 2011).

The next chapter provides the contextual background to the policies, legislation and issues surrounding advocacy for children and families in the Direct Provision system.

## **Chapter Three:**

### **Policy-making, Asylum and Reception Conditions - The Irish Context**

#### **3.1 Introduction**

NGO advocacy that seeks to improve the lives of children and families living in Direct Provision accommodation is generally directed towards a specific policy domain and much of it (though not exclusively) is focused on policies formed and implemented within the Department of Justice and Equality. Policy in this area has been influenced by a number of factors and has often developed in a piecemeal fashion as Ireland grappled in the late 1990s with its transformation from a country of net emigration to one of net immigration. The establishment of agencies such as the Reception and Integration Agency (RIA) within the structures of the Department of Justice and Equality was key in the implementation and continuation of the policy established under the Direct Provision and Dispersal Scheme. This has effectively compelled asylum seekers to reside for periods of up to seven years or more in communal hostel accommodation, with very limited personal autonomy. Alongside structures which appeared to exclude asylum seekers from integration into Irish society, other elements of policy and legislation have developed that have focused on delivering better outcomes for families and children. The rights of children in Ireland have also been to the fore in recent debates on institutional abuse and the constitutional referendum on the rights of the child in November 2012. The status of children seeking asylum in Ireland with regard to the wide range of policies and legislation promoting the well-being and rights of children in Ireland is not always clear and has largely been absent from the broader debate on children's rights.

In order to understand the process through which NGO advocacy can influence this particular policy domain, it is necessary first of all to examine the particular policy background. Specific policy choices led to the current system, which was shaped by key events of the late 1990s, early 2000s when Ireland became a country of net migration. In the early 1990s, few specialist NGOs dealing with immigration or asylum issues existed, but inspired by events of that period, a range of formalised and informal groups were established around the issues of immigration, integration and asylum. In this chapter some of the key policies, processes and issues ('problems') that have evolved since the period of the late 1990s are outlined.



Whilst many of the decisions were taken within the broad context of ‘policy-making’, the legislative environment also plays a key role in that the outcomes of what may have started as policy proposals were often legislative changes and a constitutional amendment in relation to citizenship. The international context is also important and Irish policy in this area is also influenced by key commitments made in international treaties (under the UN and Council of Europe systems) and also policy and legislation developed under the Common European Asylum System (CEAS).

This chapter presents an overview of the policy and legislative context of the study. It begins in **Section 3.2** with a general overview of the general policy making structures and mechanisms in Ireland and the fora through which state and non-state actors can interact. **Section 3.3** provides an outline of the key developments in immigration and asylum policy and legislation, with specific emphasis on the reception conditions of asylum seekers and their development over time. **Section 3.4.** looks specifically at children and families in the Direct Provision system and the applicability of international human rights law. It is followed by a review of specific human rights concerns that have been raised by NGOs, academics and the international community in **Section 3.5**. The final **Section 3.6** provides a brief overview of Common European Asylum System and its level of influence on the development of national policy and legislation in Ireland.

## **3.2 Influencing social policy – the Irish context**

### **3.2.1 Introduction**

There are a number of key structures through which interest groups and those outside official policy-making structures attempt to influence and alter the direction of Government policy making. NGOs attempt to access policy-making processes through a wide range of formal and informal mechanisms. As outlined in Chapter Two, theories of examining the agenda setting stage of the policy-making process and access to it, such as that elaborated by Kingdon (1995) are useful starting points for this study. The particular policy context of Ireland however, as a small parliamentary democracy differs to that of the American federal and pluralist system in which professional lobbyists often play a key role in Washington. This section outlines some of the specific features of the policy-making processes and structures in Ireland and elaborates on some of the formal opportunities for engagement with civil society or third sector actors. The more informal

mechanisms through which advocates engage with the policy-making process are outlined in more detail in the next two chapters on the findings of the research.

### ***3.2.2 Key Government Structures in Ireland***

Ireland's system of governance is a parliamentary democracy in which the Constitution Bunreacht na hEireann of 1937 established the three wings of executive, legislature and judiciary. The legislature (Oireachtas) is made up two houses Dáil and Seanad Eireann is responsible for law-making, through the approval or rejection of draft legislation placed before it by Government. Dáil Eireann (the house of representatives) is made up of 166 TDs (parliamentarians) elected from 43 constituencies and is the principal body under the Constitution for the areas of legislation, taxation and public expenditure. The senate (Seanad Eireann) is the second house, made up of 60 senators and has a more reflective role, focusing mainly on debating and amending legislation and deliberating on motions (MacCarthaigh, 2008, p414).

The Executive has overall responsibility for the direction and co-ordination of government policy, is approved by Dáil Eireann and is generally considered to be made up of the Taoiseach (Prime Minister) and the group of seven to fourteen ministers and the ministers of state. It is also referred to as the Cabinet. Under the Constitution, members of the Executive share collective responsibility for the policies of the Government. Each minister is given a brief for a specific department and ministers of state (or junior ministers) may be given responsibility in specific areas under a particular department. The titles and functions of ministers of state usually change with each new government, reflecting its particular priorities. In the 30<sup>th</sup> Dáil (2007-2011) for example, there was a minister of state in the Department of Justice and Equality, with specific responsibility for equality, integration and human rights. In the 31<sup>st</sup> and most recent Dáil however, such a brief has been abolished and replaced with a new minister of state with responsibility for equality, mental health, disability and older people, thus removing the term 'integration' from any ministerial portfolio.

Another mechanism that has become increasingly important is the use of parliamentary committees, which debate and propose various aspects of policy and produce a wide range of reports. They can be classified as standing committees (permanent feature of the Oireachtas), select committees (from one house only and debate legislation at the committee stage of legislation, special committees (consider particular bills) and joint

committees. Joint committees, of particular relevance for this research, are made up of members from both houses and often are involved in the work of specific government departments or may be established to consider particular thematic issues. A key feature of such committees is that they can invite or accept requests from particular interest groups to present on various topics or to provide expert evidence. In 2010 a total of 1,435 witnesses gave evidence before 565 Committee meetings (Government of Ireland, 2012a). Joint committees do not formally debate legislation, but their powers include taking oral and written evidence, publishing material, requiring senior civil servants to attend meetings, engaging consultants or specialists, requiring a minister of state to discuss policy for which he/she is responsible and undertaking travel in certain circumstances (MacCarthaigh, 2008, p34). As elaborated in the following chapters, joint Oireachtas committees featured strongly as a mechanism through which advocates channelled their concerns and through which the particular understandings and implementation of policy were debated by civil servants, elected representatives and other interested parties.

### ***3.2.3 Policy-making Mechanisms within Mainstream Government Structures***

Policy making within the Irish system has generally been considered relatively incremental in nature and the nature of policy-making is becoming more diverse and complex, with a greater range of avenues and fora through which state and non-state actors interact and contribute to the policy-making process (Murphy, 2005). There are a number of standardised traditional ways in which the Government sets out its thinking on particular policy issues. These include the publishing of Green Papers, which are often used as ways to initiate public debate and do not represent a firm commitment of a particular policy direction or legislation. White Papers may follow Green Papers and contain more details proposals and may be used as precursors to legislation.

Since 1989 all governments in Ireland have consisted of coalitions between two or more parties, often with one large party and a smaller coalition party required to make up a sufficient majority to form a government. After forming a government, the first task is usually to produce a 'Programme for Government' in which it sets out its high-level goals it seeks to achieve within its lifetime (MacCarthaigh, 2008, p49). Within each Government department, particular policies are articulated in a myriad of ways, including the publishing of multi-annual and sometimes cross-departmental frameworks, strategies and action plans. Many strategies such as the National Children's Strategy 2000-2010 set

out broad policy statements and objectives, but are not necessarily accompanied by firm commitments or budget breakdowns. Overall governmental budgets are published annually, which provide estimates of annual departmental expenditure in addition to changes in social welfare and taxation. Moves are being made however towards multi-annual expenditure programmes, with expenditure allocations for 2012-2014 now set out in a revised document, taking account of the current fiscal challenges (Government of Ireland, 2011).

Whilst elected representatives, particularly TDs (members of the Dáil) and ministers have primary responsibility for policy making and legislating, the role of the civil service cannot be ignored. The Irish civil service operates on a politically neutral basis and they play a role in implementing government policy, rather than policy-making *per se*. Civil servants however have been given greater managerial powers in recent years<sup>17</sup> and it has been found that generally civil servants play a direct role in the internal management of government departments (Connolly, 2005). Ministers may also employ special advisors who may be recruited from outside the civil service and provide particular expertise.

### ***The legislative drafting process***

The Oireachtas has sole responsibility for enacting legislation for the State (subject to rules governing EU membership). Legislation is either primary legislation (Acts of the Oireachtas) or secondary legislation delegated by the Oireachtas to another body (e.g. Revenue Commissioners). Before a bill is initiated in the Dáil or the Seanad, it must have prior approval of the Government and may be initiated as a Green Paper, outlining the Government's broad intentions (or policy) in the area. Arising from this, the 'heads of a bill' may be presented to the Government. A bill then generally proceeds through five stages before eventually being enacted as an act. A bill introduced in one house (Dáil or Seanad) passes through all five stages before then going through the five stages in the other house (with exceptions relating to bills that can only be introduced in the Dáil) (Revenue Legislative Services, 2007). Once it has been passed through both houses, it is sent to the President for signature, who has the power to refer it to the Supreme Court for a judgement on its constitutionality.

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<sup>17</sup> The Strategic Management Act, 1997 gave the Secretary General (most senior official in a Government Department) clearer powers to manage their respective departments.

### ***3.2.4 Other fora for policy-making and engagement between State and non-state actors***

Whilst it would not be possible to refer to all the mechanisms by which interest groups or non-state actors can contribute to the policy-making process, there are a number of key for a through which policy has been developed in conjunction with outside groups. These include:

- *Social Partnership*: This process became a key feature of policy-making and collective wage bargaining from the late 1980s until recently. It was originally built on corporatist pillars of employers, unions and farming organisations and was extended in the mid-1990s to include a fourth pillar known as the ‘community and voluntary pillar’. Views on the success or contribution of the process have been varied, ranging between hailing its contribution to the ‘Celtic Tiger’ phenomenon and those who link it to the lack of socially progressive outcomes and greater inequality (Gaynor, 2011).
- *The National Economic and Social Council (NESC)*: This Council, established in 1973, advises the Taoiseach ‘on the development of the national economy and the achievement of social justice’. Its work also formed the basis for the Social Partnership agreements (MacCarthaigh, 2008). Its council is made up of representatives from the business, labour, farming and community and voluntary sectors.
- *Strategic Policy Committees*: These committees operate at a local level and were established under the reform agenda of local government in 1998. They are made up of various sectoral interests and operate as sub-committees of local councils, with an advisory role in various policy areas (MacCarthaigh, 2008). There are a range of other local structures such as city and county development boards (CDBs), which were established in 2000 to ensure co-ordinated service delivery. Other policy specific local groups include county childcare committees, children’s services committees.

### **3.2.5 Conclusions**

Ireland system of policy-making can be summarised as largely incremental in nature, with Cabinet Ministers holding primary roles in policy-formulation of their relevant departments. A series of coalitions in recent years made up of multi-parties has sometimes resulted in a slight dilution of party-political ideologies. The parliamentary system in Ireland is also closely aligned with constituencies and elected representatives remain close to their constituents. The role of the civil service is also influential and whilst they are politically neutral, their administrative and decision-making powers they exert in the interpretation and implementation of policies are not to be under-estimated.

Access to policy-making processes in Ireland at least at a surface level is relatively easy and policy-making since the late 1980s has been characterised by a more institutionalised nature, through processes of social partnership, mirrored in various forms at local, regional and national levels. Access for outside groups to the policy process has been channelled through more corporatist structures, with the formation of the Community and Voluntary Pillar being a prime example of how NGOs and voluntary sector organisations, who joined the pillar and had their voice represented as a single entity, were given greater access to the policy-making process. The Social Partnership process at a national level no longer plays an important role, with the focus now away from wage bargaining and greater emphasis on fiscal austerity and cost-saving measures. The current fiscal climate has possibly also meant that opportunities to discuss new ideas and for a through which outside interest groups can interact with the policy-making process have been scaled back. This was a topic discussed with many of the interviewees and is further elaborated on in Chapter Seven.

## **3.3 Immigration and asylum in Ireland**

### **3.3.1 Introduction**

This section outlines the particular policy domain of the study, namely policy relating to migration and asylum. Whilst the system of protection is generally separate to that of immigration, the two have often been intertwined in the Irish context, with some legislation dealing with both. Asylum policy is also linked more generally to broader goals of immigration control, evidenced particularly in the reception policies for those in the asylum system. The increases in the numbers of people seeking asylum in Ireland in the late 1990s coupled with overall net immigration led to a number of key changes,

including substantial alteration to the basis on which Irish citizenship could be claimed. Whilst citizenship laws are outside the realm of the study, the manner in which the constitution was altered and the links made to asylum seekers were nevertheless substantial and demonstrate an overall harshening of the system and attempt to limit rights to which immigrants would be entitled.

This section firstly outlines the historical context of refugee and asylum seeker reception, the key changes in the 1990s and the ensuing response of the Irish Government. It then provides a description of the current reception conditions for asylum seekers and some of the general concerns that have been raised in relation to its establishment and operation.

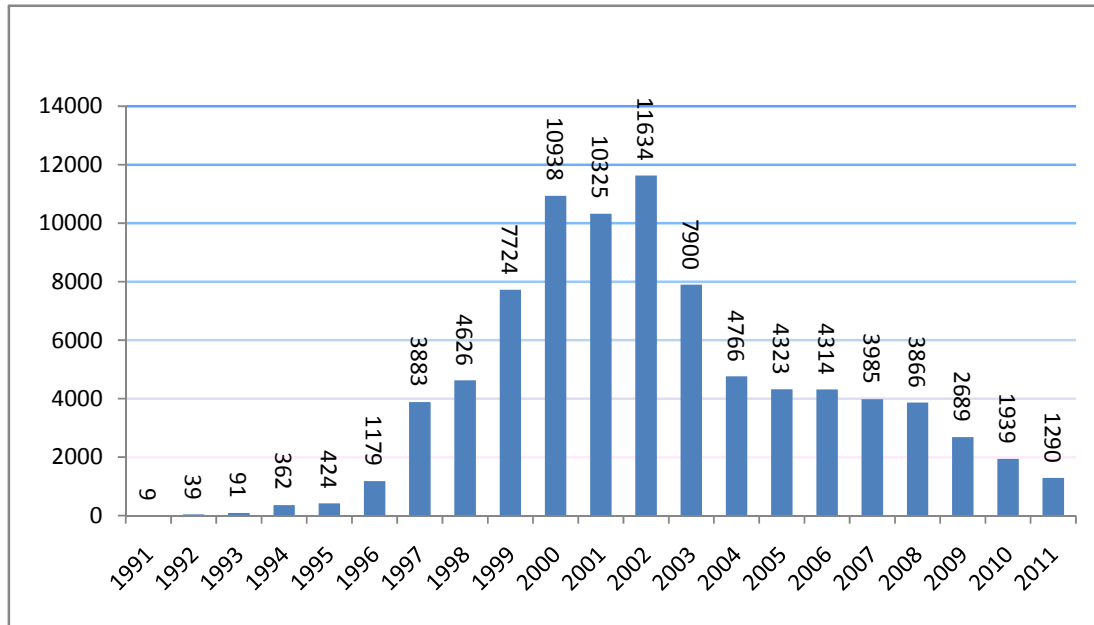
### ***3.3.2 Historical context***

The current system in Ireland of protection for people seeking refuge due to a well-founded fear of persecution has developed since 1995 in a piecemeal fashion. It has been characterised by a gradual tightening of the system, coupled with a withdrawal of social and economic supports to which people awaiting a decision on their claims for asylum are entitled. Prior to the 1990s, the numbers of people spontaneously seeking asylum were very low, with the most of the refugee arrivals coming through refugee programmes, including the UNHCR resettlement programme. Unlike other countries which took in large numbers of refugees following World War II, Ireland accepted very few refugees at this time. It acceded to the Refugee Convention (Geneva Convention) in 1956 and in the same year accepted 539 Hungarian refugees which had fled following the failed uprising. This first experience of taking in a relatively large number showed how Ireland was inadequately prepared and it led to severe discontent among the refugees who were housed in an army camp and some claimed they were kept in concentration camp type conditions without the right to work (Thornton, 2007). This was followed by a small group of Chilean refugees in 1973, 212 Vietnamese refugees in 1979 and 455 Bosnian programme refugees from 1992-1998. For most of these refugees, the supports they received were very minimal, with little English language and other educational or integration supports. Programme refugees were however generally given the right to work and this continues to be the case for the small number of programme refugees Ireland receives each year. It has also been contested that past exclusionary practices towards immigrants may have underpinned Irish Governmental responses which led to the creation of the current reception conditions (Thornton, 2007).

Ireland in the past was generally not a key destination country for asylum seekers, in comparison with many other European countries. This was partly due to geographic, political and economic isolation (Prutz Phiri, 2003) and the fact that Ireland was a small island and not traditionally an access point for people fleeing conflict. Ireland was traditionally seen as having a weak economy and was not considered a country of net immigration until the economic boom of the 1990s. During the 1990s immigration to Ireland in general increased rapidly and for the first time Ireland became a country where net immigration exceeded emigration.

In the 1990s Ireland began to experience a new phenomenon of larger numbers of people arriving spontaneously in the country to seek asylum. In 1992, only 39 people arrived spontaneously to seek asylum in Ireland, which then rose dramatically and peaked at over 11,000 applicants in 2002. Since 2003, there has been a steady decrease in the numbers seeking asylum, with current levels (of 1290 applicants in 2011) similar to those in 1996. The number of applicants received by the Office of Refugee Applications Commissioner (ORAC) since 1991 can be broken down as follows:

**Figure 3.3.2 Number of applications received at ORAC from 1991 to 2011**



Source: RIA (2012a)

The mid to late 1990s proved to be a difficult time for the Irish State as it struggled with establishing a system for processing asylum applications and receiving and housing asylum seekers arriving on its shores, a system which had heretofore been almost non-



existent. The United Nations High Commissioner for Refugees (UNHCR) was instrumental in this regard, with the establishment of a liaison office in Ireland in 1998. As the UNHCR representative of the time pointed out:

*Ireland began to grapple seriously with the reality of asylum from 1997 onward. Given the limited expertise on the ground, and a service confined to a small number of officials and academics, the need to promote refugee law in Ireland was all too evident to UNHCR at the time (Prutz Phiri, 2003).*

In the early 1990s it was also noted that the Irish position was to agree to measures that address problems affecting the EU, but there was less concern with domestic refugee issues. The Refugee Act was passed in 1996 and this set some foundations for how Ireland might regulate the process, but was still enacted at a time when numbers were still relatively low. The large increases from 1997 onwards were greeted with mixed reactions from politicians, the media and the Irish public. Some elements of the media and certain politicians at the time however served to create a sense of hysteria and exaggeration of the issue, with terms such as ‘floods’, ‘hordes’ and ‘inundation’ used to describe the increase in numbers. Whilst the Refugee Act, 1996 was considered a relatively liberal piece of legislation in comparison with other EU States, tighter controls were put in place through the amendment of legislation (such as the Aliens Act, 1935 thus giving greater powers to the immigration authorities and gradually creating a less liberal and more restrictive system of asylum (O'Mahony, 2003)).

### **3.3.3 Reception conditions and developments over time**

The policies for reception of asylum seekers evolved from 1999 onwards and over time various socio-economic rights and entitlements afforded to asylum seekers were gradually withdrawn. The reception conditions were altered radically during the period 1999-2002 and the commencement of the Dispersal and Direct Provision Scheme in 2001 signified the start of a system in which life for asylum seekers became more difficult and potentially less attractive to other potential asylum seekers (Breen, 2008).

When asylum seekers first started arriving in Ireland in the 1990s, welfare benefits were originally provided, based on the criteria of need, similar to that of Irish citizens. After lodging their claims for asylum, they were catered for by the Directorate for Asylum Seeker Support (DASS) and were initially accommodated in an induction centre before moving into the private rented sector where they received rent supplement and

unemployment assistance. All children in the State at that time were entitled to child benefit and asylum seekers were entitled to other benefits if they qualified on the basis of need, similar to the rest of the population. By 1999 however, there was considerable pressure on the Government and a view held by many politicians that the system was too costly, conditions were too good and that it was likely to create a 'pull factor' (O'Mahony, 2003). There was also a concern that too many asylum seekers were located in the capital, with considerable pressure put on the housing system, leading to a fear that emergency accommodation could no longer be provided and asylum seekers and others seeking housing could face homelessness (RIA, 2011). A specialised agency called the Reception and Integration Agency (RIA) was established and given responsibility for the reception of asylum seekers, thus replacing the former Directorate for Asylum Seeker Support.

In April 2000 Ministerial Circular 04/00 was issued by the then Department of Social and Family Affairs, which created the system of Dispersal and Direct Provision. This system was introduced just a few weeks after a similar system was established in the UK (Thornton, 2007), and was officially introduced to address the shortage of accommodation in Dublin and enabled Ireland to fall in line with other EU states that had introduced similar policies (O'Mahony, 2003). In addition to dispersing asylum seekers throughout the country and away from Dublin, it also introduced the policy of Direct Provision where asylum seekers were no longer entitled to regular welfare payments, but were provided with basic food and shelter and an allowance of €19.60 per adult and €9.60 per child per week. The rates have not changed since the introduction of the system in 2000. Initially some other supplementary allowances were still available such as child benefit, disability allowance and other family support payments. These were gradually all withdrawn and in Budget 2010, asylum seekers were withdrawn the right to receive any other support other than Direct Provision. A report by the Free Legal Advice Centres (FLAC) concluded that such changes confirmed any doubts that may have existed about the discriminatory nature of the Direct Provision system (FLAC, 2009).

A number of concerns have been raised about the conditions of Direct Provision and the legal basis on which it was established. Some of these concerns and particularly how they impact on children will be considered later in this chapter, but a summary of some of the key concerns that have been raised by academics, advocates and others can be summarised as:

- 1) The legal basis on which the *Direct Provision and Dispersal Scheme* was established was questionable as it was not based on legislation, but on a ministerial circular, thus initially giving it no statutory backing. At the time of its introduction FLAC argued that the decision to introduce the scheme was based on a policy of deterrence rather than on any attempt to address the needs of asylum seekers (FLAC, 2003). The scheme was later put on a statutory footing through the enactment of Section 13 of the Social Welfare (Miscellaneous) Provisions Act, 2003, which excludes asylum seekers from entitlement to rent supplement (O'Mahony, 2003).
- 2) The system is now twelve years in operation and very little has changed, with many of the concerns raised in reports in the early stages (FLAC, 2003, Fanning et al., 2001) still existing. There is now more widespread recognition of the human rights abuses within the system (FLAC, 2009, Breen, 2008, Thornton, 2007), also noted by various international human rights monitoring bodies.
- 3) A key concern that existed particularly at the beginning lay with the system of dispersal, which saw the creation of 60 accommodation centres in 24 counties in Ireland (O'Mahony, 2003), many of which were in small and isolated rural towns and villages, with no history of inward migration or diversity. Unlike other countries such as Sweden, where the local municipalities undergo an intensive period of preparation and are actively involved in the reception of asylum seekers and refugees (Thomsson, 2008), very little or no consultation was undertaken with the vast majority of villages/towns where the asylum seekers were to be located. Instead it has been noted that a policy of secrecy about the location of such hostels and a deliberate lack of prior consultation with the relevant authorities and service providers for fear of a backlash or unwillingness to co-operate, persisted (Pieper et al., 2009).
- 4) The impact of the system on children's welfare has been called into question by a wide range of commentators and NGOs. Children living in Direct Provision are usually dependents of adult asylum seekers, although some have applications made on their own behalf. Some arrived with their parents and others were born into the system of Direct Provision and it is the only life they know. Breen (2003) has argued that the system disregards the rights of the child and that in relation to Irish-born Children, their rights depend on the nationality of their parents contrary provisions of non-discrimination. Ireland has ratified the UN CRC and numerous other human right

instruments, yet many of its provisions are being denied to asylum seeking children and the system has been viewed by both academics, international organisations and others as discriminatory and unjust, particularly in its treatment of children and families (Fanning et al., 2001, Breen, 2008, FLAC, 2009, White, 2011).

#### **3.3.4 *Asylum, citizenship and belonging***

The period of 2000-2004 could be described as somewhat of a crisis point for the Irish Government as it grappled with coping with relatively large numbers of migrants (including asylum seekers) arriving on its shores, an emerging but still underdeveloped asylum claim processing system, a general lack of understanding and awareness of refugee issues among the Irish public, few measures of integration and concepts of citizenship and belonging that were changing. There were a number of ways in which the Government sought to curtail this growth and limit the attractiveness of Ireland as a destination for asylum seekers.

One way in which the Irish Government sought to differentiate between asylum seekers and their rights to belong in Ireland compared with ‘nationals’ of Ireland was through changing the laws of citizenship and who is entitled to it. A Referendum in 2004 has been judged as the most significant event in the politics of immigration in Ireland when: ‘constitutional definitions of Irishness narrowed at a time when the composition of Irish society had broadened significantly through immigration’ (Fanning and Mutwarasibo, 2007, p439). For the first time in the history of the State, the concept of citizenship became racialised and some politicians propagated a fear that citizenship and therefore ‘Irishness’ could somehow be hijacked or threatened particularly by those in the asylum system or other immigrants who arrived in Ireland without previous linkages to the country.

The concepts of citizenship and who was seen as having a legitimate right to belong came to the fore following a landmark judgement of the Supreme Court in the L. and O. Cases. Here the court held that the automatic right of residence that had been granted to children born in Ireland (and hence entitled to Irish citizenship) could no longer be sustained (L. and O.v. Minister for Justice, Equality and Law Reform, 2003). This created legal uncertainty, as up until that point children born in Ireland were entitled to Irish citizenship due to the *jus soli* principle of citizenship (which operated in tandem with *jus sanguinis*) and by virtue of that right, their parents as their legal caregivers were entitled to residency

in Ireland. Due to uncertainties arising from the judgement, the Irish Government was provided an opportunity to propose a referendum in which the constitutional basis for citizenship would be amended to restrict the citizenship entitlement of children born to 'non-national parents'. This referendum was passed by an overwhelming majority in 2004, but the speed with which it was brought through and the lack of debate pertaining to the nature of citizenship and rights attached to it were strongly criticised by groups such as the Irish Human Rights Commission (Mullally, 2007). The Irish Nationality and Citizenship (Amendment) Act 2004 thus provided that children born to non-national parents could only acquire citizenship by birth if one parent had lawfully been in the state for three years or more prior to the birth and time spent as a asylum seeker or student does not apply.

The circumstances leading up to the referendum, the referendum itself and the ensuing legislation were mainly fuelled by a fear of abuse of the right to citizenship. Much of the debate centred on limiting the rights of asylum seekers and their children being born here, with the phenomenon of 'baby tourism' frequently cited as a means by which (predominantly) asylum seekers exploited the health system and maternity hospitals (already perceived to be under pressure from a baby boom) in order to gain access to Irish citizenship (Byrne, 2004). As Fanning and Mutwarasibo (2007, p442) stated:

*Immigration continued to be politicised in terms of asylum seekers even though these were a fast declining proportion of overall immigration. Subsequently, in the run up to the 2004 Referendum of citizenship racialised hostility towards asylum seekers was mobilised in advocating the removal of the rights of the children of immigrants (including asylum seekers) to Irish citizenship.*

The claims made about 'baby tourism' were never fully verified and various sources pointed to the facts that such claims were unsubstantiated (King, 2004). It could be concluded that the referendum was politically motivated and a grossly exaggerated picture was painted in order to gain support for a largely anti-asylum agenda. Accusations of racism in the political discourse were strongly dismissed and the then Minister for Justice, Equality and Law Reform coined the term 'common sense citizenship' and he stated in a newspaper article:

*I simply won't allow the proposal to be hijacked by those who wish to further a racist agenda: but equally I will be harsh in my criticism of those on the other end of the political spectrum who claim to detect racism in any action, however rational, fair-minded or soundly based that affects immigration or citizenship policy (Mc Dowell, 2004).*

It has been claimed that the argument he put forward that groups who levelled accusations of racism were irresponsible, was generally accepted in media debates (Fanning and Mutwarasibo, 2007). As Mullally (2007) points out however, the changes may have been discriminatory and did not address the citizenship entitlements of other groups, including those who acquire citizenship by descent and that 'if the State's primary concern was immigration control, entitlement to citizenship by descent opened up citizenship status to much greater numbers than did the application of the *jus soli* principle'. It could be concluded therefore, that such a move was not based solely on practical concerns and it was seen a way of protecting Irish citizenship from abuse by immigrants and asylum seekers who did not fit a certain definition of Irishness.

### **3.3.5 Conclusions**

Ireland's immigration and asylum policy was in its infancy during the 1990s when asylum seekers and immigrants started arriving in greater numbers than ever experienced before in the history of the nation. Whilst the net numbers did not exceed most of its European counterparts, the phenomenon was nevertheless relatively new for Ireland and the Government grappled with competing demands of providing protection under international law; filling gaps in the employment market, providing adequate public services to both existing and new populations; and a strong sense of a need to curb the asylum issue and avoid additional 'pull factors' that would result in greater numbers. Public opinion towards asylum seekers was not always positive and a racialised referendum that centred on pressures on maternity services by asylum seekers led to a change in the constitutional rules governing citizenship of Ireland.

Many of the policies and laws on asylum and immigration were introduced during the crisis period of 1999 to 2002 and whilst numbers have been greatly reduced since, policies that were implemented to deal with what was seen as an emergency situation have largely remained *in situ* and in many cases have been tightened considerably with many gradual reductions in the levels of social protection afforded to asylum seekers. Much of this occurred during the mid 2000s when Ireland was at the peak of the economic boom and public spending was at a relatively high level, indicating a lack of political willingness to ensure greater social and economic rights for asylum seekers despite relative economic prosperity. Since the recessionary period commencing in 2010, this situation has worsened and whilst numbers are lower and overcrowding in hostels is no longer one of the main concerns, there has been considerable rationalisation within the

portfolio of Direct Provision accommodation, resulting in the often involuntary transfer of residents to other hostels (Doras Luimní 2011).

### **3.4 Children, Direct Provision and human rights**

#### ***3.4.1 Introduction***

Children within the system of Direct Provision generally arrive in Ireland with their families and do not always have claims for asylum lodged on their own behalf. In this way they differ from children who arrive as separated children whose vulnerability and lack of adult support is immediately obvious and who now are treated similarly to Irish children in the care system. Children of asylum seekers are entitled to attend school and have access to basic health care, but the circumstances of their daily life in communal hostel accommodation, often for many of their formative years, can be very challenging. This section reviews their status and rights under national and international law and the applicability of international law, often invoked by NGOs in their advocacy activities that attempt to influence reform of the system. Some of the broad concerns in relation to the system of Direct Provision are outlined and elaborated on in more detail in relation to children and families in the following section.

#### ***3.4.2 Legal Status and rights of asylum seeking children***

Children who are dependents of asylum seekers or asylum seekers in their own right are a particularly vulnerable group of children, whose status and special protection by right of being a child is often compromised by virtue of their legal status of asylum seeker, which often carries the attributes of statelessness. The situation regarding their legal status in Ireland is often muddled, complex and in practice they can be treated either primarily as children (e.g. in the education system) or as asylum seekers and thus excluded from enjoying many of the rights of the child as laid down in national and international law. Bhabha (2009, p414) speaks of ‘Arendt’s children’ who are functionally stateless and at greater risk of abuse, exploitation or neglect. She claims that in the political domain, no consensus exists on whether such children have a right to have rights. Fanning et al. (2001) argued that although over half of the 13.2 million refugees worldwide were children, their rights and needs are often absent from the national social and political agenda.

The legal issues surrounding the enjoyment of rights by asylum seeking children in Ireland are very complex and often contradictory, and there is currently no comprehensive legal review that clarifies the situation. Breen (2003) conducted a review, which looked specifically at the legal difficulties surrounding asylum seekers who have Irish-born children, who at that time were automatically entitled to Irish citizenship. In doing so however, she regarded international and national law and the extent to which it applied to such children and its interpretation in the Irish and European courts. She emphasised the principles of non-discrimination and equality, which constitute the cornerstone of international human rights treaties and mean that dignity and equality is to be accorded to all human beings. This is set out in human rights instruments such as the Universal Declaration of Human Rights (U.N., 1948), the International Covenants on Civil and Political Rights (U.N., 1966) and on Social and Economic Rights (U.N., 1966).

The key instrument however in setting out the universal rights of the child is the UN CRC (1989), ratified by Ireland in 1992. The CRC makes clear statements surrounding the universality of rights to be afforded to children, regardless of 'his or parent's or legal guardian's race, colour, sex, language... national, ethnic or social origin, birth or other status' (Art. 2). Article 3 invokes the principle of the best interests of the child as a primary consideration in all matters affecting children. Article 22 is specifically concerned with asylum seekers and states that all children seeking refugee status, whether accompanied or unaccompanied shall 'receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties'. The right of a child to acquire a nationality and where possible to be cared for by his/her parents is also enshrined in Article 7.

The European Convention on Human Rights potentially carries more weight, due to the justiciable nature of the rights contained within it. It has been argued for example that the definition and understanding of the right to family life under Article 8 is much broader than the interpretation of family life under Article 41 of the Constitution by the Irish courts (Kilkelly, 2004). Recent jurisprudence of the European Court of Human Rights shows a slight softening in the approach to the interpretation of Article 5 in relation to detention of immigrants, with a 'less stringent measures test' being introduced in some



detention cases.<sup>18</sup> In *Popov v. France* (Popov v. France, 2012), the Court found the detention of the family to be in violation of Article 3 (best interests of the child), and Article 8 (right to family life), with many of the conditions referred to in relation to detention carrying parallels with the system of Direct Provision in Ireland.

#### **3.4.3 Role of international human rights law in protecting asylum seeking children**

Whilst various authors have pointed to the lack of enjoyment of children's rights by asylum-seeking children (Breen, 2008, Ni Laoire et al., 2009, Bhabha, 2009), the actual enforcement in the courts of such rights has been difficult. The jurisprudence of the ECtHR offers hope in terms of more justiciable rights, particularly concerning the right to family life and the best interests of the child. Access to the court however is costly and complex and individual cases can only be taken when domestic remedies have been exhausted. Since the incorporation of the ECHR into domestic law<sup>19</sup>, its provisions may however be argued directly in Irish courts.

The implementation of rights under the CRC is more difficult as it falls under the realm of 'soft law' particularly as its monitoring through the UN Committee on the Rights of the Child operates in a more advisory and less adversarial way and it has been noted that its success depends more on diplomacy than legal sanction (Kilkelly, 2001). The dualist nature of Irish law also means that international treaties entered into must be incorporated into domestic law by legislation before they are applicable within the State. This difficulty has been noted by a range of commentators on the applicability of international instruments in Irish law (Mullally, 2007, Breen, 2008, Smyth, 2010a). The arena of immigration contains particular challenges in the application of international human rights law, as outlined in an article by Smyth (2010), who acknowledges that governments, including the Irish one generally resist human rights approaches to immigration matters. The message that emerges is somewhat bleak and has resonance for this study as she concludes:

*...human rights law is habitually deficient when it comes to protecting immigrants. This raises uncomfortable questions about human rights advocacy and lobbying: why argue for a human rights-based approach to immigration policy when this approach so regularly fails to deliver? Why bang the same old drum? Or should*

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<sup>18</sup> For an analysis of such case law, see Lavryson, L. (2012) 'Less stringent measures and migration detention: overruling *Saadi v. UK?*', *Strasbourg Observers*: [online], available: <http://strasbourgobservers.com/2012/01/25/less-stringent-measures-and-migration-detention-overruling-saadi-v-uk/> [accessed 07/11/12].

<sup>19</sup> Through the European Convention on Human Rights Act, 2003

*greater energies be directed towards changing the content of human rights law itself...? (ibid, p109).*

Her contention that human rights law in this area may be flawed is a valid one and there is a certain truth in the proposition that the effect of human rights advocacy may be limited and that a more effective route may be to change the way in which human rights law operates and its content. As stated earlier however, recent jurisprudence of the ECtHR offers some new hope in terms of a willingness of the Court to apply 'less stringent measures' tests in asylum and immigration cases.

In relation to asylum seeking children, the protection of their rights under international law differs somewhat to the general rights of immigrants, given their special status as children. The CRC makes it clear that such children are covered by its provisions and the four general principles of the CRC that apply to all actions affecting children include: Non discrimination (Article 2), the best interests of the child (Article 3), the right of the child to survival and development (Article 6) and respect for views of the child (Article 12). The CRC is also explicit in its particular recognition of the rights of asylum-seeking children, with Article 22 stating:

*State Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.*

The above is an unequivocal statement regarding the Conventions applicability in its entirety to children seeking asylum, as well as the enjoyment of rights in addition to other human rights instruments, which the State has ratified. There are however numerous instances where asylum-seeking children have not been entitled to full enjoyment of the rights set out in the CRC, as detailed below.

The question arises however to which extent the State views the CRC as something other than a broad normative framework to generally inform policy and practice or whether it sees itself as being legally bound to apply its provisions and provide specific rights to rights holders and impose corresponding duties. Its implementation is monitored through the Committee on the Rights of the Child, to which Ireland is obliged to report on how it

is meeting its obligations. Kilkelly (2008) notes that whilst no sanctions can be applied, the establishment of human rights norms based on it and their use by domestic and international courts, which can apply sanction is nevertheless significant.

The Committee on the Rights of the Child has so far made two reports concerning Ireland's progress under the CRC, with a third report due in 2013. The observations made by the CRC in the last report (2006) included a number of recommendations relating to asylum seeking and refugee children, including improving the system of family reunification, non-discrimination, need for greater guidance, support and protection of children during the asylum process and the need to apply the same standards of and access to support services whether the children are under the care of the authorities or their parents.

Whilst the CRC is very clear on the fact that its provisions apply to all children in the State, including children seeking asylum and that the principle of non-discrimination must apply, the attitude of the Irish Government has been less clear. This also raises the question of whether the Irish authorities view children's rights under the CRC and under the newly inserted Article 42A in the Constitution as applying to all children, including asylum seekers (and others that it terms 'illegal immigrants'), or whether such provisions are seen to apply only to citizens or citizens and those with residency status (such as those qualified under the Habitual Residence Clause, which excludes periods spent as an asylum seeker). The extent to which the Irish Government views the CRC and rights of the child as relevant to asylum seeker and other immigrant children is unclear, but through the gradual erosion of social and economic rights of asylum seekers such as the introduction of the Habitual Residence Clause and the removal of a wide range of economic benefits, it would appear that there is widespread discrimination against asylum seeking children, contrary to Article 2 of the CRC.

Whilst it could be possible to conclude that international law carries little weight with regard to giving effect to the rights of asylum seeking children, particularly in relation to the non-discrimination principle, there have nevertheless been some important judgements in the Irish courts where the best interests of the child principle as articulated in Article 3 of the CRC have been referred to in the judgement (Irish Human Rights Commission, 2006). In *L.N and C.N v. Minister for Justice* (*L.N and C.N. v. The Minister for Justice, Equality and Law Reform*, 2004), Peart J. referred extensively to Article 12 of

the CRC in assessing a judicial review case of the deportation order against a failed asylum seeker and her five children. In his judgement he referred to a range of constitutional rights and rights deriving from the CRC, in relation to the rights of the child and parental duties and rights. Whilst he did not ultimately find in favour of quashing the deportation order, he made clear statements that indicated that the CRC and other rights of the child were relevant and they applied to the children in this case and also indicated that Irish legislation such as the Refugee Act, 1996 must be interpreted in a manner that gives effect to the CRC.

Most of the case law to date on refugee and immigration law in relation to minors however has generally concerned judicial review of administrative proceedings regarding asylum claims and other forms of leave to remain. There have been no cases to date however, in relation to the overall treatment of asylum seeking children within the Direct Provision system. The Ombudsman for Children has also been excluded from investigating issues in relation to immigration, citizenship or asylum (Dáil Debates, 2005), although she has taken a strong interest in the plight of separated children and has intervened on their behalf, leading to a change from their care in inadequate hostel accommodation to foster care (Office of the Ombudsman for Children, 2011). She has also raised the issue of the limitations of her role and compared it the UK where no such limitations exist (Dáil Debates, 2005).

#### **3.4.4 Conclusions**

The legal status of children within the asylum seeking system, particularly those residing with their parents in the Direct Provision system is complex and often unclear. There has been much focus in recent years on separated children who were placed in very unsuitable hostel accommodation with very limited supervision and guidance and have now been transferred to foster and other residential accommodation on a par with Irish children in care. In contrast there has been relatively little media or attention from bodies such as the Ombudsman for Children on the situation of children accompanied by parents or guardians and their entitlement to rights and services similar to those of Irish citizen children is often unclear. The CRC provides a useful framework for examining the rights of the child, but as demonstrated here the application of international human rights law to such situations can be difficult in practice, particularly with regard to social and economic rights and are rarely enforceable in the Irish courts given the dualist nature of the Irish legal system. More hope may however be offered through the application of the ECHR in

the Irish courts, specifically in relation to the right to family life and the best interests of the child. The effect of the new Article 42A on children's rights in the Constitution remains to be seen.

Whilst lawyers and legal academics have pointed to the difficulties in the legal enforceability of such human rights law, it is to be noted however that international human rights monitoring processes through which governments are required to give detailed accounts of how they are meeting their commitments can be a useful process in terms of highlighting areas of concern and can play a role in 'naming and shaming' governments in front of the international community. It is also noteworthy that such treaties and monitoring processes are frequently invoked by NGOs in their advocacy work and their contribution to shadow reporting processes is often used to highlight areas where they may have concerns.

The next section outlines some of the specific concerns that NGOs and others have raised in relation to the reception of children and families in the Direct Provision system and are analysed where appropriate from the perspective of relevant human rights law.

### **3.5 Specific human rights concerns**

#### **3.5.1 Introduction**

The human rights concerns of children and families living in Direct Provision have been detailed in a wide range of reports and studies (Thornton, 2007, FLAC, 2009, FLAC, 2003, Irish Human Rights Commission, 2006, Manadhar et al., 2006, Stapleton and Fanning, 2002). They are frequently invoked by NGOs in their broader advocacy that often seeks to end the policy of Direct Provision. The purpose of this study was therefore not to concentrate in detail on what these concerns are and how they are manifested, rather the processes and fora through which NGOs seek to raise them and their reception at government level. In order to understand the processes, participants, strategies and outcomes of such advocacy work, it is important to firstly outline what some of these concerns are and how they have been documented in NGO and other research reports. This was also intended to assist the process of analysis of tracing any changes in policy and whether such concerns have been noted or raised in policy-making fora. It was also useful to track the Government response to such issues and this is documented further in Chapter Seven.

### 3.5.2 Key human rights concerns

#### (i) Right to family life, privacy and parenting

The protection and recognition of the family is very strong in Irish law and policy, with Article 41 of the Constitution providing express recognition of the family as the ‘natural, primary and fundamental group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law’. The National Children’s Strategy 2000-2010 noted that a supportive family environment is the foundation on which children can build the wider network of relationships they need and that supporting families is therefore essential to supporting children (DoHC, 2000). The family is also recognised as the natural and fundamental group unit of society and entitled to protection by society and State in Article 16(3) of the Universal Declaration on Human Rights (UDHR) and Article 23(1) of the International Convention on Civil and Political Rights (ICCPR). Similarly Article 8 of the ECHR provides that: ‘Everyone has the right to respect for his private and family life, his home and his correspondence’ (*Convention for the Protection of Human Rights and Fundamental Freedoms*, 1950). Article 8 is an important provision and is frequently cited in refugee and asylum law in relation to deportations, citizenship (of children or one spouse) and the ensuing separation of the family unit. Whilst the right to family life can be construed in terms of the right to live together as a family unit, simply housing a family under the same roof is not necessarily sufficient recognition of the right to family life. The preamble of the CRC gives strong recognition to the family unit and recognises the importance to the child’s development of growing up ‘in a family environment, in an atmosphere of happiness, love and understanding’.

Family life and privacy associated with it are very difficult in Direct Provision and reports have cited numerous examples of how Direct Provision impacts on family life, including undermining of the role of parents through not being able to provide for their children, low levels of personal autonomy and decision making for both parents and children, overcrowding, lack of privacy and the overall institutional nature of Direct Provision. Two NGOs have stated in this regard:

*Direct provision, comprising of institutional communal centres, is not well designed for, nor supportive of children or parenting. Children cannot have a normal childhood living for prolonged period of time in an institutional setting. In addition, the level of poverty experienced by most families living in this system.. along with*

*the long-term consequences for families and parenting where parents are unable to engage in study and work is worrying* (Integrating Ireland and Children's Rights Alliance, 2009, p4).

Research studies in which asylum-seeking parents have been interviewed have demonstrated the high levels of frustration among parents who feel that they cannot provide a decent life for their families, such as the mother who told FLAC 'there are restrictions that you can't do anything about. That's the frustrating aspect of the system. You can't fend for yourself' (FLAC, 2009, p99). In the report by Fanning et al. (2001), there are numerous examples of families reporting high levels of stress as a result of lack of privacy, interference by others in their parenting (other residents and hostel staff) and a lack of autonomy in bringing up their children and stress within the family as a result of the very difficult and cramped conditions. Coping strategies sometimes involved withdrawing children from communal hostel life where possible and isolating them in their bedrooms. Parents worried about the exposure of their children to disputes, inappropriate television (e.g. over 18 films), vulgar language and general lack of supervision and suitable facilities for children (Uchechukwu Ogbu, 2011).

Linked to the need to protect family life is the role of parenting and the challenges parents face in trying to fulfil their parenting role, with such limited personal autonomy. Again, the research reports point to numerous examples of parenting constraints, which include difficulties around supervision (communal living can cause a blurring of roles and boundaries in relation to who is supervising which children), decision-making of parents in relation to what a child eats, whom they interact/play with, being able to organise play dates/ birthday parties, lack of autonomy of food and an overall sense that they are not able to provide for their children (Fanning et al., 2001, FLAC, 2009, Fanning and Veale, 2004, Collins, 2002, Uchechukwu Ogbu, 2011). This lack of personal autonomy has been criticised by international human rights monitoring bodies, such as the report of the visit of Commissioner for the Human Rights in 2007 (Commissioner for Human Rights, 2008), which expressed concern about the low levels of personal autonomy and recommended that asylum seekers should be provided with work permits and special family accommodation should be provided to families with children, with separate cooking facilities (Commissioner for Human Rights, 2008). Similarly the UN Special Rapporteur on Human Rights and Extreme Poverty concluded after her visit to Ireland:

*The Direct Provision System limits the autonomy of asylum seekers and impedes their family life, as most accommodation centres have not been designed for long-term reception of asylum seekers and are not conducive to family life (UNHRC, 2011:21).*

***(ii) Right to adequate standard of living***

Article 27 of the CRC provides for a right of children to an adequate standard of living for their physical, mental, spiritual, moral and social development. This differs however to a right to standard of living afforded separately to adults, such as in Article 11 ICESCR. Whilst there is recognition of various financial constraints, states are expected to use their resources to the maximum extent possible to alleviate child need and should operate within a framework of non-discrimination as well as on the basis of the best interests of the child principle (Article 3 CRC).

One of the major concerns raised in relation to Direct Provision has been the high levels of poverty experienced by residents in Direct Provision. Poverty and social exclusion are recurring themes in reports on Direct Provision by NGOs (see e.g. Integrating Ireland and Children's Rights Alliance, 2009, FLAC, 2003) , international human rights monitoring bodies (Commissioner for Human Rights, 2008, UNHRC, 2011) and academics (see e.g. Fanning and Veale, 2004, Dolan and Sherlock, 2010). The key concerns include the very low levels of financial support, the lack of additional supports through the operation of the Habitual Residence Clause (including child benefit). Children living in Direct Provision are at high risk of poverty, yet they are not included when compiling statistics for the EU Survey on Income and Living Conditions (EU-SILC) as they are not considered to be living in a 'household' (FLAC, 2009). The effects of such poverty are manifold and compounded with other isolating factors can lead to a strong sense of social exclusion for children and their families. The low financial support and accommodation arrangements often mean that ordinary childhood events such as birthday parties, playing in other children's houses or participation in sports or hobbies are almost impossible. It also means that parents are unable to supplement the diet provided in the Direct Provision accommodation, often with health and nutritional consequences for their children. Children may find it difficult to make friends in school due to this social exclusion and inability to participate in the same activities as their peers.

The Irish Government has repeatedly stated that it is committed to ending child poverty (DoHC, 2000) and in 2002, the then Minister for Social, Community and Family Affairs,



when questioned in a Parliamentary Question about the treatment of asylum-seeking children in the context of anti-poverty policy, responded that the Government was absolutely committed to ‘tackling the issue of child poverty wherever it occurs’ and noted how important child benefit was in relation to alleviating child poverty for asylum seekers (Dáil Debates, 2002). As of 2008, child benefit is no longer available to asylum-seeking children and the allowances have not increased. As a number of authors have concluded, the former calculation of social welfare on the basis of need has now changed to a person’s legal or immigration status and asylum seekers have largely been excluded from the structures of the welfare state (see e.g. Thornton, 2007).

Asylum seekers are also excluded from working at any stage, a situation which may continue for up to seven years. This precludes them from earning any extra income and compels them to live on the very small weekly allowances. The EU Directive on Minimum Reception Conditions (EU Commission, 2008), which Ireland has refused to ratify stipulates that all asylum seekers should be given work permits not more than six months after they register their claim. Ireland has been criticised by the international community for not allowing this right, and is possibly one of the principal reasons why Ireland has not signed up to the directive and refuses to co-operate in that area of Community Law. This enforced system of idleness and reliance on the state further compounds the low standard of living and social exclusion experienced by asylum seekers.

### ***(iii) Health, food and nutrition***

The right of the child to the enjoyment of the highest attainable standard of health and access to health care services is recognised in Article 24 of the CRC, with Art. 24 2(c) referring to the provision of adequate nutritious foods. Art. 12 of the ICESCR similarly recognise the right of everyone to ‘the highest attainable standard of physical and mental health’. The Irish National Children’s Strategy also contains the objective that ‘children will be supported to enjoy the optimum physical, mental and emotional wellbeing’ (DoHC, 2000).

The system of Direct Provision has also been linked to poor physical and mental health of both adults and children residents. Given the often traumatic circumstances from which asylum seekers are fleeing, some may be suffering from Post Traumatic Stress Disorder or anxiety-related conditions on arrival (Stewart, 2006), which may be further

exacerbated by the conditions of Direct Provision, including enforced inactivity and the high rate of rejection of their asylum claims in the first instance (Akidwa, 2010). Ireland's National Intercultural Health Strategy (HSE, 2006, p42) recognises the effects of Direct Provision on health and concludes:

*It appears that prolonged length of stay of people within the Direct Provision system may have a direct negative effect on overall well-being... The length of time spent by asylum seekers in Direct Provision, together with their lack of entitlement to access employment, has an additional detrimental effect on mental health. Lack of entitlement to work, when this restriction extends over a long period, may further compound mental health, with boredom, depression, sense of isolation and loss of self esteem commonly reported symptoms.*

The Intercultural Health Strategy 2007-2012 makes a number of other comments in relation to the health needs of asylum seekers and refers to research studies such as that of Manadhar et al. (2006) and concern expressed by the Institute of Public Health on the links between poor food choice in Direct Provision and nutritional status. Many studies on the well-being of asylum seekers have pointed to deep dissatisfaction among asylum seekers in relation to the type, quantity and quality of food they are served in addition to lack of choice in terms of meal times (Akidwa, 2010, Pieper et al., 2009, FLAC, 2009, Manadhar et al., 2006). This is viewed as particularly detrimental effects for children, and particularly for infants and small children who may need to eat more frequently or at different schedules. Residents are often afraid to complain about the food for fear of being seen as a troublemaker and 'jeopardising your case' (Akidwa, 2010, p16). Women who are pregnant or breast-feeding have complained about being hungry and not having access to fruit and parents and health officials have expressed concern around unhealthy food (Manadhar et al., 2006, FLAC, 2009). The cultural appropriateness of the food has also been questioned and whilst some centres have made efforts to provide a greater range of foods, this is often not always the case, as one parent who participated in the Mayo Intercultural Action study (2006, p77) stated:

*It's hard to eat all your meals in crowded canteens every day. The food it not what we're used to. It is not prepared like we do it at home. My children eat nuggets and chips every day. It's not healthy. I want to be able to cook for my family. You are not allowed to cook, it encourages laziness, you become a cabbage.*

Some reports have also indicated that the mental health states of parents in Direct Provision can affect their ability to parent effectively and be responsive to the needs of

their children. Low self esteem and poor personal autonomy were also found to impact negatively on parenting and the ability of parents to be a good role model for their children (Fanning et al., 2001). This coupled with the fact that children do not witness their parents going out to work or even cooking a meal for many of their formative years can have a detrimental effect on parents' abilities to be a positive role model.

***(iv) Right to housing***

Many of the concerns of Direct Provision relate to the type of accommodation and housing provided. The right to housing and asylum seekers in Direct Provision has been covered extensively in an article by Breen (2008) who examines Ireland's obligations from the perspective of United Nations and European legal frameworks and concludes that the policy of Direct Provision violated the rights to an adequate standards of living, with particular focus on the rights to adequate housing and the interrelated rights to food and health. The right to housing arises in a number of international instruments, including the positive obligation contained in Art. 21 of the Refugee Convention, to accord refugees the most favourable treatment possible, which should never fall below that granted to aliens generally. Art. 5 of the International Convention on the Elimination of All Forms of Racial Discrimination similarly places an obligation on states to guarantee everyone without distinction, the enjoyment of economic, social and cultural rights and, in particular the right to housing. The ICESCR has provided an expansion of what the right to adequate housing entails, including 'adequate privacy, adequate space, adequate security, adequate lighting and ventilation' recognising that it is also determined in part by social, economic, cultural, climatic, ecological and other factors (CESCR, 1991).

The right to adequate housing is also contained in the European Social Charter, 1961. In *Defence for Children International v. the Netherlands* (*Defence for Children International v. the Netherlands* 2008), a violation of Article 31§2 (right to shelter) was found to have occurred through the eviction of a family with children who were unlawfully present in the Netherlands. The right to respect for family life and home is also contained in Art. 8 of the European Convention on Human Rights (ECHR). Whilst the right to housing and home has been given a reasonably wide interpretation in the jurisprudence of the European Court of Human Rights (Breen, 2008), they have also recognised the rights of refugees and displaced persons as socially vulnerable groups and recognised that there is a need for a fair distribution of the social and financial burden (ECHR, 2006). In relation

to asylum seekers however, the most detailed provisions outlining the rights to adequate housing are contained in the EU Council Directive (2003) laying down minimum standards for the reception of asylum seekers, which the Irish Government has decided not to opt into.

Whilst asylum seekers in Direct Provision are provided with basic shelter, light and heat, it cannot be said that such housing is adequate in the terms outlined by the CESCR, particularly for families who are often living in very crowded conditions with up to five sharing a small room. Various reports have indicated that this can cause tensions within families (FLAC, 2009, Mayo Intercultural Action, 2006) and the lack of privacy and personal space often leads to difficulties, and older sons sharing bedrooms with their mothers can be taboo in some cultures (Uchechukwu Ogbu, 2011). Lack of space for intimacy or communication between parents also causes problems and has been shown to create strains on relationships both between parents and with the children (*ibid.*).

Various sources have called on the Government to provide more suitable accommodation for families. This was strongly iterated by the Commissioner for Human Rights Hammarberg who recommended that separate family accommodation should be provided (Commissioner for Human Rights, 2008). The response of the Irish Government to such claims has generally been that contractors are required to comply with the Housing Act 1966 and 'any report of a diminution in standards which comes to the attention of RIA is immediately followed up and proprietors are instructed to make any changes and improvements deemed necessary' (Debates, 2008). It has also been noted that bedrooms are not only the place in which families all need to sleep, they are also the main room for recreation, play and study and children may spend much of their time in cramped and confined spaces (FLAC, 2009).

#### ***(v) Child development and enjoyment of childhood***

Article 6(2) of the CRC provides that States shall ensure to maximum extent possible the survival and development of the child, a principle crucial to the implementation of the whole Convention (UNICEF, 2002). In its implementation handbook on the CRC, UNICEF (*ibid*, p103) states that the 'concept of development is not just about the preparation for adulthood. It is about providing optimal conditions for childhood, for the child's life now'. The Committee on the Right of the Child in its Guidelines for Periodic Reports also asks States to 'create an environment conducive to ensuring to the maximum

extent possible the survival of the child, including physical, mental, spiritual, moral, psychological and social development, in a manner compatible with human dignity' (CRC, 1996). A key objective of the Irish National Children's Strategy (2000-2010) was similarly that children would be supported to enjoy the optimum physical, mental and emotional wellbeing.

It has been asserted that it can be somewhat difficult to reconcile the objective of child development and optimal wellbeing in the context of Direct Provision, which severely curtails the possibilities for families and others to provide for the optimal development and wellbeing of children (FLAC, 2009). Constraints mentioned include the factors listed above and the overall lack of autonomy and control families have over their own lives, coupled with the very low levels of formal support afforded to asylum seeking families (FLAC, 2009, Akidwa, 2010). The potential negative consequences of enforced return or deportation for children who have spent more than in a country as an asylum seeker have also been noted (Kalverboer et al., 2009).

### **3.5.3 Conclusion**

NGOs, academics and others have raised concerns about the well-being of children and the ability to enjoy family life for children and families who spend long periods of time living in Direct Provision accommodation. These have frequently been couched with reference to Ireland's obligations under international law and as detailed in the next chapter have on occasions also been the subject of scrutiny of international human rights monitoring processes.

## **3.6 EU asylum policy**

### **3.6.1 Introduction**

An area that is not mentioned as frequently, but that does influence the direction of asylum policy in Ireland is EU policy and legislation and the development of the EU Common Asylum Policy. Whilst Ireland has not ratified the Reception Conditions Directive, it has signed up to most other major immigration and asylum-related directives. At an EU level, Ireland receives a relatively low number of asylum seekers, particularly in comparison with some countries in Southern Europe (Hatton, 2012), which operate as ports of entry and under the Dublin II Regulation, asylum seekers must lodge their

application for asylum in the country of the first port of entry within the EU and may be returned to that country to lodge their claim.

### **3.6.2 Overview of development of EU asylum policy**

Asylum policy and legislation within Ireland does not operate within a vacuum and is clearly influenced by the development of a Common European Asylum System (CEAS). The EU as an entity is not primarily concerned with issues of international protection or human rights, rather its core is concerned with the achievement of economic aims through the creation of ‘an internal market characterised by the abolition, as between Member States, of obstacles to the free movement of goods, services and capital’. Increased political and economic co-operation however between Member States necessitated the introduction of some common approaches to issues of immigration, border control and asylum and were introduced both in the Single European Act of 1986 and the Amsterdam Treaty in 1999 (Guild, 2006). One of the aims of the Amsterdam Treaty was to make the EU a single protection area for refugees, based on the ‘full and inclusive application of the Geneva Convention on Refugees and on the common humanitarian values shared by all Member States’ (Pirjola, 2009, p348). At the same time the EU became concerned with control of external borders, sometimes termed ‘non-entrée policies’ (Hathaway, 2005).

EU asylum policy has hence developed with inherent contradictions between reconciling universal human rights interests of asylum seekers and the particular interests of the EU or its member states, which may be more concerned with border control and exclusion. A number of key organisations such as the European Council on Refugees and Exiles (ECRE) and the UNHCR have criticised various aspects of the Common European Asylum System, with ECRE stating in its response to the Green Paper on the Future of the European Asylum System stated that:

*Member States show little willingness to share the burden and responsibility of refugee protection with each other, let alone with the developing countries that shoulder the lion's share of the global responsibility. Nor do they appear to recognise that restrictive EU asylum policies are highly contagious and weaken the global refugee protection regime* (ECRE, 2007, p2).

Authors have commented on the numerous tensions in the debate on asylum policy and how the human rights dimension may be in tension with the security dimension and more recently the ‘struggle against terrorism’ (Pirjola, 2009).

Currently European asylum policy is made up a number of key binding directives and regulations. The principle ones are outlined below:

- The Qualification Directive (Council Directive 2004/83/EC), which establishes the minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection (recast)
- The Asylum Procedures Directive (Council Directive 2005/85/EC) establishes the minimum standards on procedures in Member States for granting and withdrawing refugee status (proposed recast).
- The Dublin II Regulation (Council Regulation EC 343/2003) establishes the criteria and mechanisms for determining the EU Member State responsible for examining an asylum application (proposed recast).
- The Reception Conditions Directive (Council Directive 2003/9/EC) lays down the minimum standards for the reception of asylum seekers (proposed recast).

In addition to specific legislative instruments, broader policy documents include the 2007 Green Paper on EU Asylum Policy, which sets out the broad framework for Phase 2 of the Common European Asylum System and takes cognisance of the fact that progress has been slow and aims to achieve greater harmonisation in areas such as the quality of the decision-making process, the evaluation of the relevant documents presented by asylum seekers, the appeal procedures and proposes various models of a uniform system, where the current major disparities between Member States would no longer exist. It also proposes to reduce national powers of evaluation of material reception conditions and access to the labour market.

In recent years, the operation of a common EU Asylum policy has been at the centre of a number of debates and controversies, in particular the application of Dublin regulation which requires asylum seekers to lodge their claims in the first EU state they enter. This means that countries such as Greece, Spain, Italy and Malta receive disproportionate numbers of asylum seekers with the spotlight recently on Greece, which struggled greatly in providing appropriate reception conditions to asylum seekers. The European Court of Human Rights ruled in *M.S.S v. Belgium and Greece* (*M.S.S. v. Belgium and Greece*, 2011) that, returning asylum seekers to Greece violates the European Convention on Human Rights. ECRE has called for a major overhaul of the Dublin system and has

argued that such a system ‘shifts responsibility for asylum seekers to states at Europe's frontiers’ (ECRE, 2011).

### ***3.6.3 Ireland’s interpretation of and commitments to EU asylum policy***

Ireland participates in the Common EU Asylum Policy and has opted into all the relevant directives and regulations, with the notable exception of the Reception Conditions Directive. Ireland has exercised its right under the Protocol on the Position of the UK and Ireland under the Amsterdam Treaty and has hence opted out of this area of legislation (Irish Naturalisation and Immigration Service, 2012). In effect this has meant that Ireland is now the only EU Member States that do not grant access to the labour market at any stage of the asylum process. It has been stated by Government in various fora that one of the principal reasons for opting out of this directive has been due to the Government’s policy of not wishing to grant the right to work due to fear of it creating a ‘pull factor’(Committee on Justice Equality and Defence, 2011).

Ireland also participates in the European Refugee Fund and the European Integration Fund, which come under the EU Commission broader programme called Solidarity and Management of Migration Flows’. The overall aim of the European Refugee Fund is to assist Member States in ‘receiving and bearing the consequences of receiving refugees and displaced persons’ (Article 2, EU Council Decision 573/2007/EC). Pobal is the state agency responsible for managing these two funds on behalf of the Office of the Minister for the Promotion of Migrant Integration. Under the European Refugee Fund, some supports are available for groups to apply to work with asylum seekers, but they may only cover reception supports (such as basic language training, provision of information etc.) and are precluded from offering integration supports.

## **3.7 Chapter conclusions**

A considerable number of NGOs, academics and members of the international community have sought to raise issues about the way in which the system of Direct Provision was established, is administered and the length of time in which people continue to reside in the system, without recourse to work or educational opportunities. A number of NGOs in Ireland have formed a forum, which specifically aims towards the abolition of the system of Direct Provision. The manner in which children are treated and specific social and economic rights relating to children have also been highlighted. This



chapter has attempted to outline the policy environment in which such policies were made, continue to be implemented and some of the key concerns raised about the operation of such policies.

Ireland's system of parliamentary democracy, the relatively neutral civil service and the relatively recent development of corporatist partnership structures involving various civil society actors all contribute to a particular model of policy-making, with emphasis often on collective wage bargaining, labour market security and the channelling of interest groups via corporatist pillars. Whilst some social issues have been dealt with in the partnership structure, the rights of minorities such as refugees and asylum seekers have generally not been included in the process and civil society groups have sought to influence policy through a myriad of different ways.

Asylum policy and reception conditions for asylum seekers have developed largely outside the realm of mainstream social policy and have been almost exclusively the reserve of the Department of Justice and Equality, traditionally responsible for issues such as justice, the penal system and the control of Irish borders. As discussed in the findings of this research, tensions have sometimes arisen between the Department of Justice and other Government departments such as the Health Service Executive (HSE) whose concern may lie more with the overall health and welfare of groups it comes in contact with. The development of asylum policy in Ireland has been largely piecemeal and emergency measures to deal with a crisis situation have now been established as long-term solutions. The last decade has been marked by a gradual harshening of the system and several attempts to avoid creating a 'pull factor' that would result in the increased desirability of Ireland as a destination for asylum seekers.

Alongside this gradual harshening of the system and little general public awareness or resistance, a number of NGOs working with asylum seekers at local/regional and at a broader national level became involved in campaigning for reform of the system, with many starting from the premise of the overall aim of abolishing the system of Direct Provision. A number of strategies have been used by such groups and in addition to raising humanitarian concerns, they have also begun to invoke provisions of international law and raise their concerns with the broader international community through human rights monitoring systems. The particular circumstances of children and families have

often been to the fore in such campaigning and advocacy, also noted by various international human rights monitoring bodies and experts.

This chapter has highlighted the policy and legislative environment, its evolution over the last decade and some of the particular concerns that have been raised by advocates, particularly in relation to children and families in the Direct Provision system. The role of EU asylum policy has also been referred to and the extent to which Irish policy is dictated by wider developments within the EU.

## **Chapter Four:**

### **Research Design and Methodology**

#### **4.1 Introduction**

This research is an exploratory study of NGO advocacy relating to the reception conditions of asylum seeking children and families. Whilst the processes, events and strategies associated with such advocacy are very important, it also seeks to understand the reception of such advocacy by the State and to examine whether these NGOs have had any success in putting their concerns on the public agenda.

As explained in this chapter, the approach taken shares many characteristics of a case study, but is somewhat broader than a typical one. Within the context of advocacy relating to the reception conditions of asylum seeking children and families, particular episodes and structures were identified as being pertinent to deepening our understanding of how such advocacy works and its role in the policy process. The overall approach to the methodology is a situated one, in which the data, theories and methodological rules are placed in dialogue with each other.

This chapter presents both the overarching framework or design for the study and details the methodological approach and methods involved in the process. **Section 4.2** outlines the overall research design and rationale for its approach, outlining the four criteria which influenced it. This includes ontological and epistemological perspectives, the various theories and concepts guiding the research, methodological approach and its links to the research question and finally the choice of methods. **Section 4.3** outlines the details of the research process, including a description and analysis of the methods used. The sampling framework is provided in **Section 4.4**. A number of limitations and ethical considerations which emerged during the research process are outlined in **Section 4.5**. The approach to the analysis, including the use of NVivo software is contained in **Section 4.6**.

#### **4.2 Research design and rationale**

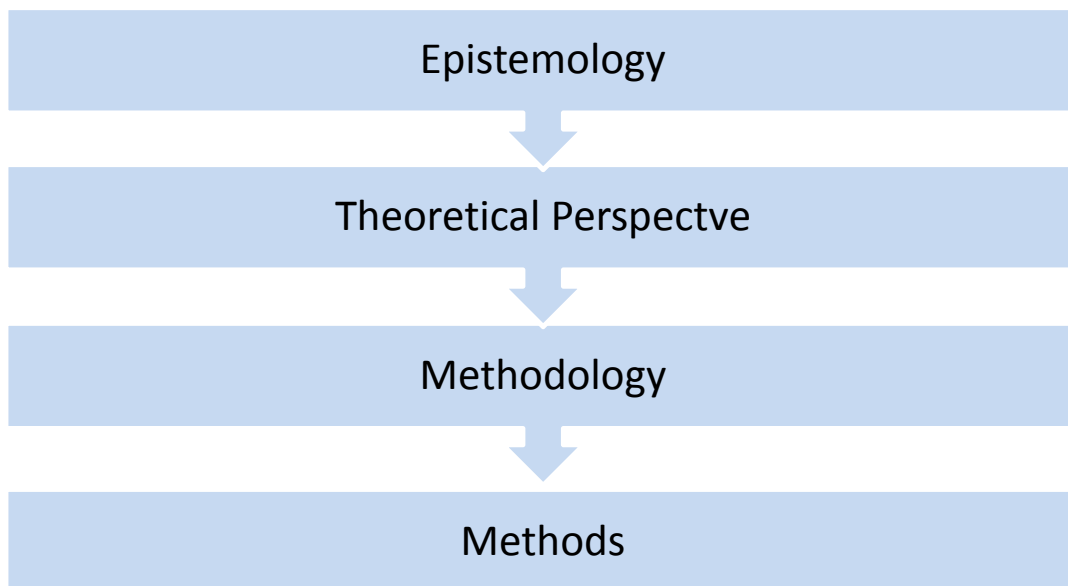
##### **4.2.1 Overview**

A research design can be primarily informed by testing or adding to a particular theory or it may be drawn from empirical concerns, which in turn are linked to theories at various stages of the research process. It is also seen as a framework for the generation of

evidence that is suited both to a certain set of criteria and to the research question in which the investigator is interested (Bryman, 2008, p30). In this study, the research design was based on finding an appropriate methodology that would answer the research question, but was also situated within a particular epistemological framework and informed by various theoretical concepts. The research centres on the question of how NGOs advocate in relation to the reception conditions of asylum seeking children and families, including a focus on how such advocacy is received by state actors and the attempts that NGOs make at putting their concerns on the public agenda. Such processes are complex and gaining an in-depth understanding of the intersection of advocacy and policy making in this context would not have been possible within a purely positivist framework. Emphasis was placed also in the study on the meaning various actors gave to their actions and behaviours, which were also compared and contrasted with the interpretations given by different actors operating within the same context.

Crotty (1998, p10) proposes a useful framework for setting out the epistemological and theoretical perspectives underlying the choice of methodology and methods in a research strategy. The four interlinking elements proposed in his model are outlined below.

**Figure 4.2.1 Linking elements of research strategy**



*Source:* Crotty (1998, p4).

In adapting this guide, the choice of research design was decided based on the criteria of:

- Ontological and epistemological perspectives;

- Theory and concepts guiding the research;
- Methodology and its link to the research question(s); and
- Particular methods chosen, including practical and logistical concerns.

In the next sub-sections, the first three of these perspectives are set out, demonstrating how they influenced the choice of research design. Section 3 then outlines the research methods in detail.

#### ***4.2.2 Ontological and epistemological perspectives***

At the broadest level, research is informed by a particular ontological perspective, which is the study of being and understanding *what is* (Crotty, 1998) and is often concerned by a view of whether the social world is regarded as external to social actors or something that people attribute meaning to. Ontology is closely linked to philosophy and the study of being. Two principal ontological positions are *objectivism* which implies that social phenomena are external facts, over which we cannot have any influence or *constructionism*, which maintains that social phenomena and their meanings are constantly being produced by social actors and we interpret and provide meaning to the world around us, in other words they are socially constructed (Bryman, 2008, p19). This research is based within such a framework and the processes of advocacy and their links to policy making are viewed through the lens of the social actors who attach meaning to them, in addition to the interpretations of the researcher.

Ontological issues are sometimes confused with epistemology, which is concerned with the nature of knowledge and how we know what we know. Maynard (1994, p10) describes epistemology as ‘providing a philosophical grounding for deciding what kinds of knowledge are possible and how we can ensure that they are both adequate and legitimate. The greatest epistemological divide is between positivism (or objectivism), which advocates the application of methods of the natural sciences to the study of social phenomena. Meaning is seen as existing separate from the operation of any consciousness. Knowledge is arrived at through the gathering of factors that provide the basis for laws (inductivism) (Bryman, 2008, p13). Constructionism as referred to above can also be referred to in epistemological terms and rejects the positivist or objectivist view of human knowledge. Meaning is not discovered, but is created or constructed. Questions in this study revolve around meanings and perceptions, such as do advocates perceive themselves as being effective? How do they view the policy-making process?

How are their actions received and perceived by government actors? This research is located within a constructionist paradigm, focusing on how actors in the advocacy process (both advocates and policy makers) perceive and interpret their own and others' behaviours.

#### **4.2.3 Theory guiding the research**

Theory guiding research can be divided further into what is termed *grand theory* or *middle range theory*. Grand theories operate at a more abstract or general level, such as Bourdieu's concept of social capital, critical theory or symbolic interactionism. Middle range theories on the other hand operate at a more empirical level and in a more limited domain. These are also referred to as meso-theories and much qualitative research involves the use and testing of such middle-range theories (Wodak, 2007). The incorporation of theory into research can be either inductive in which theory is derived as an outcome of the research or deductive in which theory is used to formulate ideas and hypotheses that guide the research. Grounded theory is an approach associated with inductive research where generalisations can be produced through analysing a series of cases, which are 'grounded' in empirical research (Dey, 2007). A third model however is that of abduction in which a number of concepts are taken as possible explanations of empirical phenomena or for forming several hypotheses (Rosenthal, 2007). Abduction relates an observation to a theory (and vice versa) and results in an interpretation. It differs from the logical process of deduction in that it produces possible interpretations rather than logical conclusions (Dey, 2007).

In this study a number of middle-range theories are used to guide the research, both in the design, data collection and data analysis phases. The incorporation of theory into the research is closer to that of abduction in which theories and observations of empirical processes will be integrated to produce possible interpretations and explanations. Some deductive methods are employed in terms of testing particular hypotheses arising from theories such as some of the hypotheses proposed in Kingdon's model of Agenda setting (Kingdon, 1995); data is also used to inform existing theory, add to it, discredit it where necessary and possibly propose new approaches.

Three broad theoretical perspectives were used in approaching this research, with the framework of agenda setting (as a method of policy analysis) being the most dominant. Other policy analysis approaches were used as informing concepts where appropriate,

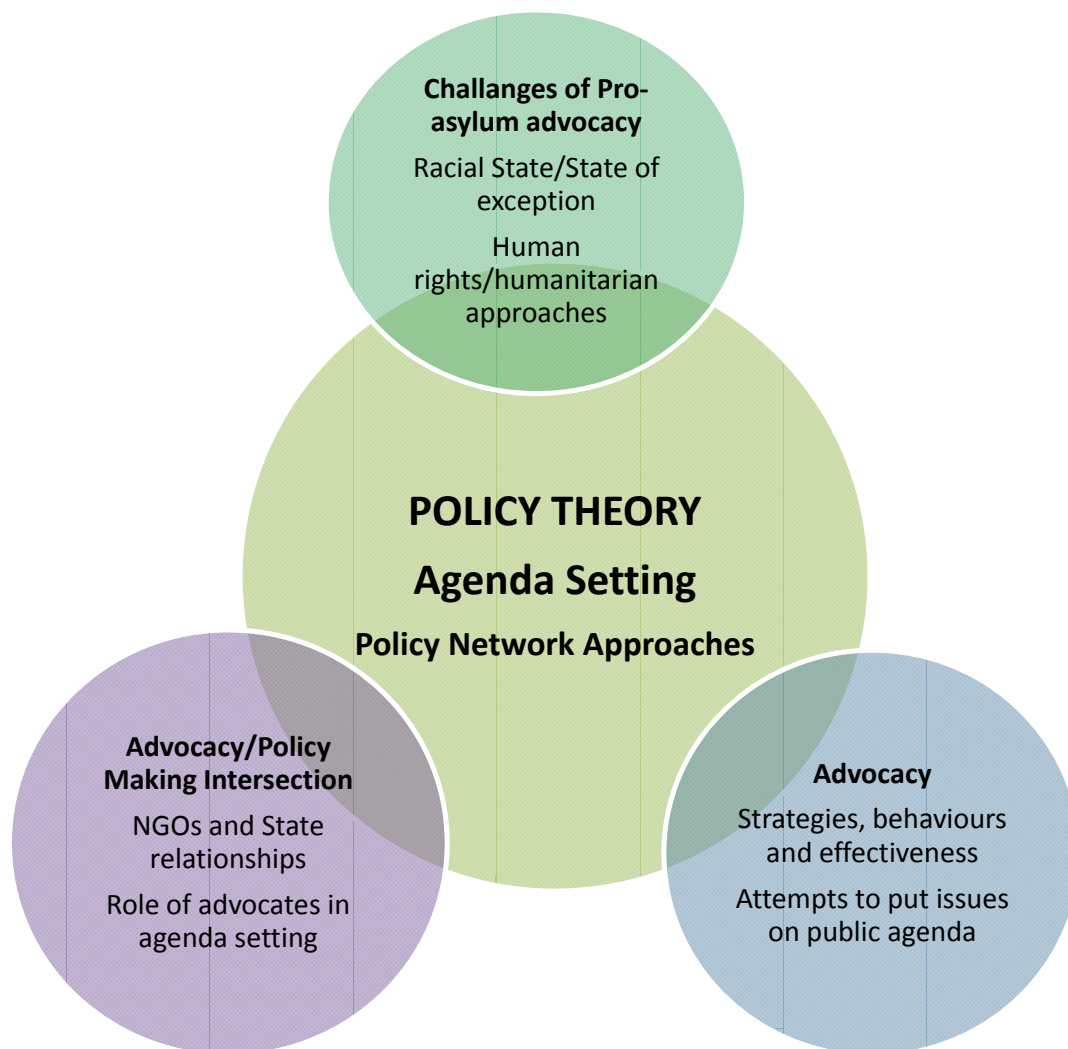
such as the policy network approaches (Marsh and Smith, 2000). Secondly the broad literature on systemic advocacy in the not for profit sector was analysed and was useful in terms of understanding advocates' behaviours, strategies and processes. Thirdly the challenges associated with advocacy that is pro-asylum in a tightly controlled policy domain were examined and theories attempting to explain the behaviours of the state and the differing worldviews of advocates and policy makers assisted in understanding this dichotomy. In some cases theoretical perspectives guided the research design from the beginning whilst other concepts emerged as important during the research analysis phase, such as the emphasis on worldviews of advocates and policy makers (Hintjens et al., 2011).

As outlined in Chapter Two, the agenda setting model advocated by Kingdon (1995) is useful in so far as it provides a structure with which to analyse the early stages of policy making process and the influences of various actors, but it does not capture sufficiently factors such as power dynamics, access to decision-making, agency of actors and the role of advocacy itself, which are central in this study. Whilst the literature on advocacy is important in terms of understanding the role of advocates, strategies employed and their effectiveness, it cannot be described as a theoretical perspective *per se*. This body of literature is relatively new and could benefit from the insight of theoretical perspectives from political science and sociology. Similarly, there is a growing body of literature on the third sector or non-profit research, which is useful in informing the research on the role of NGOs, particularly in relation to advocacy and policy-making. This literature provides useful contextual background for understanding the role NGOs play in the process. The role of the State is important in understanding the role the state plays in the policy-making process and interactions between advocates and the State. Much of the research in Ireland on the area of asylum policy and reception has focused on the conditions of asylum seekers (Thornton, 2007), their support systems (Christie, 2003, Uchechukwu Ogbu, 2011), human rights concerns (FLAC, 2009a) and the role of international law (Smyth, 2010a). Yet the perspective of the State and the role that various state actors play in formulating policy and their interactions with non-state actors such as NGOs are less understood. The racial character of the state as elaborated in theories of the racial state and the approach of contesting a 'state of exception' (Agamben, 2005, Hintjens et al., 2011) are useful in understanding the particular nature

and processes involved in asylum policy making and its reception of human rights claims of non-citizen children and families.

Figure 4.2.3 outlines a framework of the various theoretical perspectives and concepts used in guiding the research.

**Figure 4.2.3 Theoretical perspectives and concepts**



#### **4.2.4 Methodological approach**

Crotty defines methodology as ‘...the research design that shapes our choice and use of particular methods and links them to the desired outcomes’(1998, p7). The choice of methodology was based on the criteria above and finding a design that would be the most effective in answering the research question. The overall approach could be described as a



‘situated methodology’ which is viewed as ‘instead of forcibly applying abstract methodological rules to contingent situations, the research situation is placed in a position of dialogue with methodological rules’ (Seale et al., 2007, p7). Such an approach may have some roots in the pragmatic tradition, which urges us to relate theories and thought to empirical data (Morris, 1937) and whose principle tenet has been that the social world is a matter of practice (Seale et al., 2007). This research study commenced in a pragmatist vein in the sense that it began with attention to a particular social problem or issue that in turn led to a study based in a particular social context.

The methodology in this study is based primarily on a qualitative framework, but contains some triangulation of methods through the incorporation of a quantitative survey mapping the background and concerns of NGOs working in the sector. The research design is based on a particular research context and could be described in terms of selecting a particular case ‘where the outcome of interest occurs’ (Mahoney and Goertz, 2006, p19). The research is not concerned with broad behaviours of a large sample, but is relatively specific temporally, spatially and carries some similarities to a case study in terms of focusing on a particular group of NGOs with an interest in raising concerns relating to the reception conditions of asylum seeking children and their families. A case study is defined by Yin (2009, p18) as having two essential features, firstly being as an empirical enquiry that ‘investigates a contemporary phenomenon in depth and within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident.’ Whilst certain features of this study may apply broadly to other advocacy situations or attempts to influence public policy in other domains, the specific context is nevertheless very important. In this sense, this study meets the criteria of this first part of Yin’s definition. Other authors however, have given a case study a more limited meaning and Bryman (2008) emphasises case studies as research on particular cases such as a community, family, person, organisation or event and describes it as being based on intensive examination of the setting. Using such a definition, the current study is not strictly a case study as it is not limited to a particular organisation, place or event, but rather on a group of organisations attempting to influence Government policy. It also entails looking at the response of Government actors to such attempts to influence them and their policy-making role. In this sense, the study is broader than a traditional case study approach, but as described in the section on methods contains similarities in terms of methods of data collection.

Looking back at theoretical perspectives informing the study and the methodological frameworks used in that literature was also useful. The methodological approach of other similar empirical studies was also influential. One of the main theoretical perspectives underpinning the research is the agenda setting model of Kingdon elaborated in his book *Agendas, Alternatives and Public Policies* (1995). In this book methodology does not feature very strongly, but an appendix on methods is included. Kingdon uses the terms case study throughout his book and particularly in relation to his particular focus on examples of policy initiation or non-initiation. On closer reading it is clear however that the 23 cases listed as units of analysis are drawn out from in-depth interviews and analysis of secondary data and they relate to very specific events or topics such as the development of a particular airport or the introduction of waterway user charges. In other words he did not start with case studies as the primary unit of analysis, but rather looked at a broader policy area through a range of methods including interviews, documentary analysis and some survey research and through that analysis particular case studies were developed. This study differs in its approach to that of Kingdon, which was more concerned with the particular processes and structures at play in the development of policies and less in the substantive issues. Whilst the model is useful here in terms of one particular aspect of policy making, there is more emphasis in this study on the questions of substantive policy, who has access to the process and the approach of the Government to this policy domain.

This research carries some similarities with a case study approach as defined by Yin (2009) in the way that it explores a particular contemporary phenomenon in-depth. Yin (2009) also refers to case studies as benefiting from development of theoretical propositions beforehand to guide data collection and analysis, and theory development is seen as an essential component of the design process. Theory that is sufficiently developed assists not only in the design and data collection phases, but also provides a means through which the generalisation of the case study results can occur. If generalisation can occur from a case study, it is usually not of the statistical kind, but what Yin (2009, p38) terms ‘analytic generalisation’, which occurs when a previously developed theory is used as a template to compare the empirical results of the case study. In other words, analysis of the data can help to support a particular theory and can be stronger with multiple case studies where two or more case studies support the theory.

Case studies are generally objects of interest in their own right and the researcher attempts to provide an in-depth elucidation of it, which can be termed an idiographic approach as opposed to a nomothetic approach which generates statements that apply regardless of time and place such as a cross sectional design (Bryman, 2008, p54). Authors differ on the generalisation value of case study and whilst Yin (2009) attempts to address this through his term ‘analytical generalisation’, other authors from a stronger qualitative paradigm are less concerned however about its generaliseability due to the fact that they do not view the purpose as to generalise to other cases or to populations beyond the case (Bryman, 2008, p55). In this research, the approach taken contains elements of both, with attempts made to test particular theories through empirical research, thus potentially leading to some generalisation at a theoretical level.

In terms of addressing the concern of more positivist researchers that case studies have limited external validity, this can also be overcome by responding that the particular study here is sufficiently broad and critical in its own right and represents a social phenomenon about which little is currently known. In this sense, it is similar to what Yin (2009) terms both a ‘critical case’, which allows the researcher an opportunity to test a particular theory. Kingdon’s model of agenda setting has not been tested extensively outside the U.S. and few policy studies in Ireland have specifically used his model in terms of analysing the agenda setting process. It is also interesting to apply it in a slightly broader way and to incorporate a lens of more critical inquiry and examine the particular reasons for difficulties in transparent and open decision-making procedures and why some NGOs may feel they have limited influence in policy-making and agenda setting in this particular context. In this way it could also be considered what Yin (2009, p49) terms a ‘revelatory case’ where the researcher can study a phenomenon previously inaccessible to scientific observation. Whilst the phenomenon here was not inaccessible in a literal sense, very little is known about the role of NGO advocacy in policy making in Ireland and particularly in the context of asylum policy and its effects on children and families.

To summarise, the methodological approach takes an abductive approach to theory, where theories and empirical data are linked to give rise to interpretations. The methodology also aimed to be one which can be termed ‘situated’ as described by Seale et al. (2007) in the sense that the research situation and methodology are closely intertwined and a particular methodology is not imposed artificially.

#### **4.2.5 Addressing the research question**

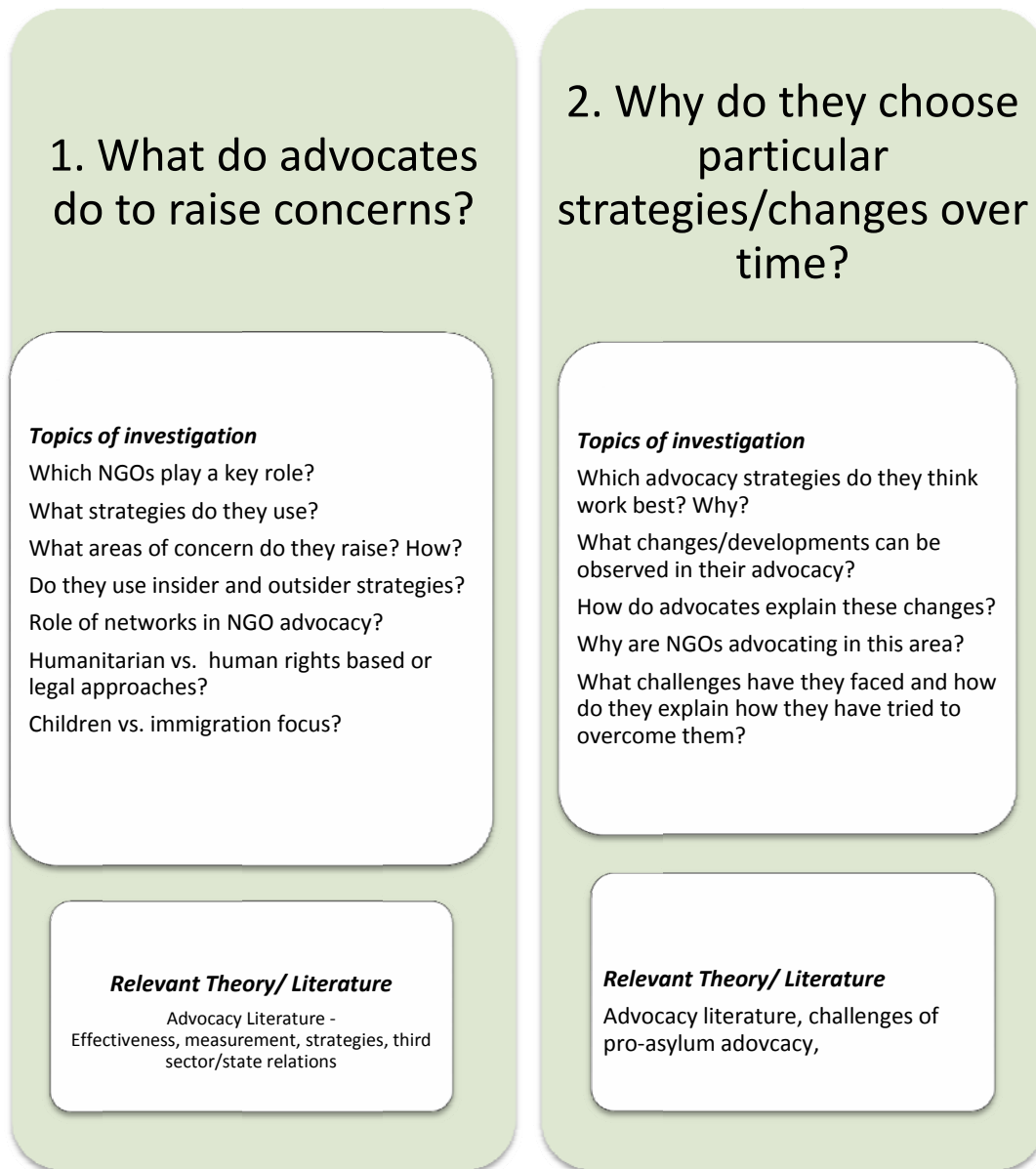
The overarching question behind this study is summarised as:

*How do NGOs advocate in relation to the reception conditions of asylum seeking children and families in Ireland, including how such advocacy is received at state level and how the NGOs attempt to put their concerns on the government agenda?*

The NGOs who advocate in relation to asylum seeking children and families were central to this study and including their perspectives on their advocacy activities was an essential component. Unlike other studies of advocacy that have focused mainly on the perspectives of advocacy, it was also considered necessary in this case to focus on the perspectives of the targets of such advocacy, who can be broadly classified as ‘policy makers’. Key funders and experts on advocacy in Ireland also participated in the research.

The research components, their sub-research questions and the theoretical perspectives that informed them are outlined in the figure below:

**Figure 4.2.5 Linking of key concepts and research questions**





Whilst the overall research question can be broken down into various components and sub research questions, they do not exist in isolation and overlap with each other. All sub-questions or themes are a means to exploring the overall research question. As discussed below, a variety of methods were chosen to address the various components of the research, based on both documentary analysis, analysis of webcasts of meetings, survey of NGOs and three series of in-depth interviews.

### 4.3 Outline of research process

#### 4.3.1 Overview and summary

The research process was divided into a series of stages and methods. The principal phases and the objectives of each are summarised in Table 4.3.1.

**Table 4.3.1 Overview of research process**

<b>Research phase</b>	<b>Principal Methods</b>	<b>Timeframe</b>	<b>Objectives</b>
<i>Exploratory phase</i>	1. Initial literature review 2. Documentary analysis of NGO/policy literature 3. Initial consultations with three key NGOs	09/10 to 01/11	To explore advocacy/policy making in this field and existing research. To assess viability and relevance of research question
<i>Ethical approval</i>	Submission to NUIG research ethics committee	03/11 to 04/11	To ensure that potential ethical issues arising from the research would be addressed
<i>NGO Mapping</i>	Survey Monkey questionnaire administered with NGOs	04/11 – 06/11	To map key NGOs, identify areas of advocacy, strategies, types of organisations etc.
<i>Documentary analysis</i>	Analysis of key NGO submissions, policy reports, and transcripts of Joint Oireachtas Committee meetings and Dáil debates.	12/10 – 12/11	To trace how particular concerns were raised, responses to them and observe interactions between advocates and policy makers
<i>NGO interviews</i>	In-depth semi-structured interviews with 12 NGO staff	07/11 – 12/11	To explore processes, structures, strategies etc. of advocacy, challenges, attempts at agenda setting etc.
<i>Policy maker/observer interviews</i>	In-depth semi-structured interviews with 8 policy makers and 4 observers/funders	01/12 – 03/12	To explore how advocacy is received, policy making processes, episodes involving interactions with NGOs etc.
<i>Interview transcription</i>		10/11 – 04/12	
<i>Analysis in NVivo</i>	Coding, sorting and analysis of transcripts & some key documents	03/12 – 06/12	Multiple coding of transcripts to discern patterns emerging

The various phases of the research are outlined in the sections below.

#### **4.3.2 Exploratory phase**

##### *Initial literature review*

The research process commenced in the latter part of 2010. The initial phase involved an exploration of the general theme of NGO advocacy for asylum seeking children, both from the perspective of relevant academic and theoretical perspectives, and also with a view to understanding the particular research context and the context in which advocacy takes place. These two simultaneous approaches were combined to develop the central research question.

An initial literature review involved a literature search of both Irish and international sources on understandings of advocacy in applied and academic contexts, policy-making and the stages or levels at which outside interest groups can influence this process, general reading on asylum and refugee policy-making as well as the particular context and hegemony surrounding asylum seeking children. This initial literature review led to some key observations, particularly:

- The academic literature on advocacy is growing in the international context, particularly in the interdisciplinary field of not for profit research. It has however not been subject to extensive scrutiny using theories and models developed in sociology and political science.
- There is an extensive body of literature on the policy-making process and policy analysis, particularly in the discipline of political science. There is a wide range of models and approaches, with many of the influential models on change in the policy process developed in the U.S. (Sabatier, 1988, Kingdon, 1995). Whilst a number of theories examine the structures and actors involved in the policy-making process, the influence of NGO advocacy in this process does not feature very strongly in the literature.
- There is not a broad range of academic literature on advocacy in the Irish context and few Irish studies have examined the links between NGO advocacy and policy making. The domain of asylum and refugee policy in Ireland has featured in a range of academic literature, but no substantial studies on the links between it and NGO advocacy were discovered.



A review of both the (very limited) Irish and international academic literature on public advocacy was carried out. The step involved reading the advocacy literature of a general nature, focusing on some key articles on the overall state of play of advocacy in certain countries such as the U.S. (Andrews and Edwards, 2004) and Ireland (Keenan and Montague, 2010) and also a core reader on advocacy for children based in the UK (Oliver and Dalrymple, 2008b) which provided some insights into issues surrounding advocacy specifically for children. Based on references from such literature, further reading was acquired and a web-based search for academic literature on more specific terms was undertaken. This was done using academic databases as Scopus™, JSTOR™, the NUI Galway library catalogue and in some cases Googlescholar™. Search terms included the keywords: ‘NGO advocacy’, ‘advocacy’ AND agenda setting, ‘advocacy’ AND influencing policy, ‘advocacy’ AND asylum seekers/refugees, ‘advocacy’ and children. Abstracts of the articles returned in the search list were then scanned for relevance to the research question and full downloads were made of those that were considered relevant in terms of addressing some of the issues relevant to the research question.

#### *NGO Consultations*

In addition to a preliminary literature review, initial consultations were undertaken in early 2011 with some key NGOs working in the field of advocacy for asylum seekers in order to ascertain some of the key issues for them and the extent to which they were involved in advocacy activities. Organisations were chosen on the basis that they were large-scale and operated at a national level and initial consultation meetings were held. These consultation meetings were similar to unstructured interviews, but they were not recorded and were less formal than the subsequent interviews during the data collection phases. Some of the key findings from these consultations, which informed the finalisation of the research question were:

- NGO advocacy is considered very important and relevant in trying to influence policy, legislation and practice with a view to improving the lives of asylum seekers.
- Whilst children were a concern for a number of organisations, much of the advocacy work was directed towards overall systemic change and did not necessarily relate to specific groups within the asylum seeker population.

- Advocacy networks play a crucial role and there is a high degree of co-operation in the sector.
- Whilst it might be difficult to analyse the overall influence on policy-making, many NGOs were concerned with getting their voice heard and putting their concerns on the public agenda.
- Some NGOs expressed an interest in research that would look at the links with policy making and hearing the perspectives of policy makers, often absent from reports in this area.

This exploratory phase helped to clarify both the gaps in the academic literature, the availability and appropriateness of theoretical models and some of the current issues in the research context. This led to the formulation of the research question, sub-questions and helped in developing a more detailed research methodology.

#### **4.3.3 Mapping of NGOs**

Whilst the primary focus of the research was on qualitative data collection through interviews and secondary documentary analysis, it was considered necessary at the outset to obtain an overview of the key NGOs involved in advocacy in this area, some of their principal attributes and a brief outline of their key issues of concern and ways in which they raise them. This took the form of an on-line survey, which was sent initially to twenty organisations identified through networks of integration/immigration NGOs and from the Children's NGO sector. It was also used as a means to introduce the research and identify organisations interested in taking part in the interview phase. The response rate was however very low, with only six questionnaires completed. Response rates to such on-line surveys are typically reasonably low. Whilst many of those contacted agreed to take part in the research, many waited until contacted again for the interview (which covered many points contained in the survey) and therefore may not have seen a need to separately fill in the survey.

This questionnaire contained 21 questions, most of a quantitative nature, with options in some to provide further comment. The first questions focused on the nature of the organisation, sources of funding, size and whether it was mainly regional/local or national. The next questions looked at advocacy and sought information on the groups they advocated on behalf of, particular types of advocacy activities, whether they

advocate on behalf of individuals or groups and what they consider to be the most effective methods of advocacy. There were also two questions on the role of networks and the next section looked specifically at the areas of concern surrounding asylum seeking children. The last section examined the target audience of the advocacy activities and on the means through which they contact Government. The final question asked the respondents whether they would be interested in participating in an in-depth interview to discuss these issues and others in more detail.

Whilst the response rate was relatively low and obviously did not gather the same richness of data as the qualitative interviews, it was nevertheless useful for the following reasons:

- Whilst many of the questions were discussed in a more in-depth way during the interviews, it was helpful to clarify some of the broad issues of concern, methods of advocacy and profile of some of the NGOs.
- In some cases, it was used as the first contact with the research participants and after completing the questionnaire they agreed to participate in an interview.
- The data generated from the survey was combined with the qualitative data through a process of triangulation, in which results from both can be corroborated.

The results from the survey are however relatively limited due to the low response rate and the detailed responses are therefore contained in the appendix.

#### ***4.3.4 NGO interviews***

The first stage of in-depth fieldwork commenced with a series of in-depth interviews with workers in key NGOs, identified during the mapping phase. A total of 15 NGOs were invited to participate and workers from twelve NGOs were interviewed (thirteen individuals). One NGO declined the invitation on the basis that the research was not relevant to their area of work and two others could not be contacted or did not reply to at least three requests to participate. The interviews were all held face to face (except one telephone interview) and mostly in the offices of the NGOs. This also allowed for me to become more familiar with the particular organisation and in some cases to meet with other colleagues. The interviews were generally held with the person with most responsibility for advocacy in the organisation and this also included people in policy

posts or those with specific responsibility for asylum seeking children. The interviews lasted between 50 minutes and two hours, with most taking slightly longer than one hour. Preparation prior to each interview included becoming familiar with the particular organisation and the role of the interviewee within the organisation, gaining familiarity with some of their key documents (usually available on their website) and adapting the research guide for the particular individual.

Interviews are described by Rapley (1995, p16) as ‘social encounters where speakers collaborate in producing retrospective (and prospective) accounts or versions of their past (or future) actions, experiences, feelings and thoughts’. Such a description would obviously differ from interviews within a more positivist paradigm, where they may come under the heading ‘structured interview’ or standardised interview, where each respondent is asked the same questions in the same order, often used in a manner similar to a questionnaire in survey research (Bryman, 2008, p193). At the other end of the spectrum, interviews in ethnomethodology may be ‘situated’ ones in which on-going talk in an observational situation is used to assist in understanding the particular situation (Seale et al., 2007, p161) and such interviews are akin to unstructured ones in which the researcher may just have a brief set of prompts or broad topics to discuss in an unstructured way with the interviewee. Some unstructured interviews may just start with one question and the interviewee is allowed to respond freely with the interviewer responding to points that seem worthy of being followed up (Bryman, 2008, p438). Many interviews however in qualitative research tend to be somewhere between the two and semi-structured interviewing is a common form of interview, where the researcher has a list of topics or questions to be covered, referred to as an interview guide or schedule. The respondent is given reasonable leeway in the way in which they respond to the questions and further questions may be formulated based on the responses of the respondent.

The semi-structured interview was the general form used in this research as it provided some structure for the interview and allowed similar questions to be asked of interviewees in similar categories, but also allowed sufficient flexibility and gave the interviewee the opportunity to raise issues or put emphasis on topics of particular concern to them. The research question was of a relatively exploratory nature and was not based on any absolute testing of a hypothesis and therefore it was important to allow the interviewees to speak relatively freely and emphasise the issues they felt were important. When some

interviewees began to speak at length in relation to topics not directly related to the overarching research question, I let them finish what they were saying and then redirected them back to the research question by asking a question that pertained more directly to it.

Interview guides were prepared for each interview and a generic template was used for the NGO interviews, which was then tailored for each organisation. Lofland and Lofland (1995) quoted in Bryman (2008, p442) suggest that in preparing an interview guide, one should ask oneself the question 'just what about this thing is puzzling me?', which can be applied to the research question(s). Particular topics or questions were chosen in order to provide some responses to the various research questions and to attempt to work out overall what influence NGOs do or potentially could have in the policy-making process in this particular context. The questions or topics were ordered around particular themes and followed a general structure, which allowed the interview to flow well and topics flowed relatively naturally from each other. The initial questions were general and asked respondents to give some background to their organisation and their role within it. These were what is termed by Kvale (1996) as 'introducing questions'. Such questions included ones such as 'tell me a bit about your role in x organisation..' and were useful as a way of easing into the interview and asking the respondent to talk about a topic they were familiar and comfortable with. Using Kvale's (1996) template of nine types of interview questions, these were proceeded by 'follow-up questions', which asked respondents to elaborate on what they had said or clarifications such as 'what do you mean by..'.

Further information was also sought through probing or seeking more information. The next part of the interview focused specifically on advocacy and the respondents were asked to provide examples of specific advocacy activities they were involved in. Follow-up questions were asked about their particular role in relation to such advocacy (behaviours), precise description of events that took place (encounters and narratives) and who did what exactly (roles), reasons for choosing particular strategies (justifications), consequences or effects of particular strategies. Respondents were asked to recall specific events, meetings or series of correspondence in detail, both giving a detailed account of their own actions and how they interacted with other NGOs or colleagues, and interactions and responses from those who were the objects of such advocacy activities (normally Government actors). They were also asked about how successful they believed such strategies were and whether they had any measure or indicators of such success. Questions were also asked in relation to specific interactions with Government

officials/elected members (relationships) and whether they felt listened to, specific responses they received and which particular people they tried to influence and why. They were asked also to specify in detail the type of interactions and whether the communication tended to be more face to face, by telephone, written, E-mail etc. or a combination and why. I also probed them about who initiated the contact, on what grounds and which interactions were initiated in order to raise a specific topic or whether interactions took place within a particular pre-existing structure (e.g. interagency group on Direct Provision).

The third set of questions focused specifically on the agenda setting phase of policy making and the role such advocates may have played in it. This included questions on how concerns became concerns in the first place (issue emergence), whose concerns they were, why they decided to make them the subject matter of their advocacy activities, whom they raised them with, the outcomes and whether they feel they succeeded in bringing such issues to the attention of the particular policy makers in question. They were also asked to comment on the policy making process and the extent to which they felt NGOs were able to influence it. The particular nature of policy surrounding asylum and the processes associated with it were discussed, a topic which was more familiar to some than others. Where respondents showed more familiarity with the policy making process and the influence of outside actors, this was discussed in more detail and included questions on policy-making and implementation, role of particular legislation, usefulness of policy submissions and reasons for co-operation/non-co-operation between Government and NGOs.

After the first three interviews were completed, it became apparent that NGO networks played a major role in advocacy in relation to asylum seekers, children and Direct Provision in general. Specific NGO networks were used to formally lobby or influence Government actors and some NGOs channelled most of their advocacy efforts through such NGOs. Subsequent interviews were therefore adapted slightly to take cognisance of this and where relevant the role of such networks played a greater role in the interviews than originally anticipated.

The interview guide and conducting of interviews was also influenced by the theoretical framework and particularly by Kingdon's model of agenda setting and the means by which they sought to put their issues on the Government agenda. This included examining

the distinctive nature of each agency, as well as exploring synergies, consensus and competition with other NGOs in the field. When particular issues that were raised with Government are highlighted, I concentrated on the context of the time to examine what other factors may have influenced why such an issue did or did not rise to prominence (opening of policy window). In the analysis phase, this was also correlated with documentary analysis and analysis of webcasts of meetings/debates where available. This helped to contextualise the information and to attempt to track the various means through which different actors attempt to influence the agenda setting phase and to trace other macro and meso level factors, including the particular political landscape of the time and the influence of factors such as public opinion. The interviews also tracked what access to decision-making the interviewee has or had and whether this has changed over time and why. The interviews also sought to track the rise and fall of particular issues over time (problems) and whether particular policy entrepreneurs emerged from within the NGO community and any role they may have played in succeeding in putting their issues on the policy agenda. Where relevant, the interactions with and or support from EU/international NGO umbrella groups or policy networks were also considered, as well as the role of international/inter-governmental organisations and their commentary on Ireland's human rights record in this regard.

During the interviews also some participants gave their personal views on matters and others were clearly solely representing the views of their organisation. This was discussed by some participants at the beginning of the interviews and generally it was agreed that where opinions as opposed to statements of fact were sought, these would be more representative of their personal views as defining an organisational viewpoint on every issue would be very problematic. This also fitted within the constructionist paradigm, whereby weight was given to the actors' interpretations of events.

#### *Limitations of NGO interviews*

Overall, this set of interviews was unproblematic and the organisations who participated were very co-operative and expressed interest in the research. A few minor limitations or drawbacks were experienced, which included:

- In some cases the interviewee spoke at length at the beginning of the interview about their organisation, projects and their role and sometimes it was difficult to move onto more specific questions related to the research. A

careful balance needed to be struck between allowing the interviewee speak freely and structuring the interview around the particular research question. In some cases, the work described by the interviewee was not particularly relevant for the research and it was a little difficult to try to change the topic and ask them about something, which was possibly not as familiar to them. In the majority of cases however, the interviewees were directly involved in advocacy and/or attempting to influence policy and it was easier to steer the conversation in such a direction.

- In a few cases time was insufficient for a variety of reasons and it was difficult to cover all the topics within the allocated hour and it could have been useful to have had more time or to conduct a follow-up interview. I decided however that it would generally not have been appropriate to conduct follow-up interviews as this may have put much more emphasis on particular organisations and it could have been very difficult to negotiate given the respondents time constraints. It was also felt that it would have been inappropriate as it did not form part of the original request and was therefore not what they had agreed to.
- In most cases, there were no problems with recording, except in one interview where there was no longer sufficient space on the recorder and the latter part of the interview was therefore recorded using note-taking. This created a slightly disjointed interview, but the major topics were nevertheless covered.
- In a few cases, there was a slight sense of research fatigue among some interviewees or organisations who had participated in a large number of research projects and sometimes concern was expressed that they did not see many results of such research. Cognisance was taken of this throughout the process and I promised the participants that I would write a shorter report with a summary of the key findings, which could be useful for such organisations. I also ensured that I sent a thank you card to each participant within a few days of carrying out the interview and thanked the interviewees in person and assured them that their contribution was valuable.
- The interviews were conducted from July to October 2011, with the final analysis and writing up of the thesis occurring at a later date. In some instances,



there were new policy developments or documents that subsequently came to light that were not included in the NGO interview phase.

#### ***4.3.5 Interviews with policy makers and observers/funders***

The next phase involved interviews with policy-makers in order to obtain their perspective on policy development and implementation in relation to asylum seeking children, the processes through which policy is made and changed and to look specifically at how they receive and perceive NGO advocacy in this area. Their interactions with advocates and their observations of how advocacy works were discussed. The interviews also focused on policy-oriented fora and networks and the role that NGOs formerly did or currently play within them and how this has developed over time.

Initially it was envisaged that the principal actors in this area would mostly consist of senior civil servants in the Department of Justice with responsibility for overseeing and implementing policy in relation to asylum seekers. Whilst such an assumption was true to a certain extent, it emerged however during the phase of interviews with NGOs that there had been a greater shift towards targeting TDs and senators (elected representatives) directly and some expressly stated that much less time and effort was spent on trying to influence officials as ‘they usually just give the official line and it’s hard to influence them’. A development during 2011 involved the gathering of momentum of a network of NGOs (The Forum on Direct Provision) who presented at Dáil hearings and made representations to Joint Oireachtas Committees and tried to ensure that the human rights issues surrounding asylum seekers (particularly children and families in Direct Provision) were put on the Government agenda. The role of NGOs in attempting to influence politicians directly therefore became much more prominent and it was therefore considered important to ascertain the views of the politicians across the political spectrum who had shown some interest in this particular debate, and especially the members of the two relevant Joint Oireachtas Committees.

The general approach to interviewing was generally similar to that taken in the NGO interviews, with some notable differences. Firstly, the group under the heading of ‘policy makers’ was much more disparate and more individualised interview schedules were devised for each interview. Challenges also arose in relation to what could be perceived as ‘elite interviewing’ (Richards, 1996) where some interviewees were in

relatively high positions, with considerable power. Gaining access to elites for the purpose of carrying out social research can be the biggest challenge (Rice, 2010). Potential difficulties were envisaged in relation to gaining access to civil servants within the Department of Justice, but access to the Director of the Reception and Integration Agency was obtained immediately after providing detailed information on the research and its purpose.

Gaining access to politicians however was more difficult, particularly as the issue of Direct Provision did not appear to be an immediate political issue. Ten current politicians were selected on the basis of having demonstrated an interest in the issue of Direct Provision in the past two years (based on analysis of Dáil debates and particularly the Joint Oireachtas Committee Meeting on Health and Children, October 2010). Three politicians agreed to be interviewed and despite asking politicians across a range of Government departments, all three were members of the Labour Party. This may have been partly due to the fact that a Labour party senator assisted in approaching some of her colleagues. The politicians responses cannot therefore be said to be representative of a broad spectrum and all three interviewed were relatively sympathetic to the conditions of asylum seekers living in Direct Provision accommodation. The perspectives of other politicians and particularly the Minister for Justice were ascertained partly through their interventions in various debates, websites and the Health and Children Committee transcript.

The interviews with civil/public servants were very informative in terms of them providing detailed knowledge and understanding of the intricacies associated with the policy of Direct Provision and where relevant, their interactions with NGOs. It was evident however, that such civil or public servants were often reticent to provide their own personal opinions or in some cases to demonstrate the actual powers or role they held in relation to policy making. An official government position was provided on many issues, although through deeper probing and reframing of some questions, richer descriptions emerged, demonstrating greater nuances and the complexities involved. Some civil/public servants also demonstrated a reticence to discuss NGO advocacy in detail, either because they did not feel it was appropriate for them to comment, or because they claimed they had little interactions with NGOs. The subject of NGO advocacy was approached delicately during such interviews, with preparation work carried out prior to the interview on what the nature of the interaction with such

officials may have been. Direct questions relating to particular NGOs were avoided, unless the interviewee volunteered to discuss such details. Where interviewees did provide accounts of particular NGOs or specific interactions, the information was subsequently used in such a way so as not to identify the parties involved in order to preserve anonymity.

Government officials were guided throughout the interview with some particular questions, but were also given opportunities to talk about what they felt was important and to raise their issues of concern, thus allowing their voice to be listened to. Their interpretations and meanings they ascribed to various events were important. Whilst in some transcripts lengthy descriptions are provided of various meetings etc., this proved to be invaluable in analysing their interpretations. The interviews with policy makers were conducted deliberately after completing the NGO interviews (including the transcriptions). This allowed an opportunity to examine the key issues emerging from those interviews and to prepare questions in relation to how policy makers had responded to such advocacy.

Whilst many of the interviews with public/civil servants lasted for one or one and a half hours, the interviews with politicians (n=3) were considerably shorter. This was due to two principal reasons: Firstly, the politicians were interviewed in Government buildings during a busy working day and their time was very limited. Secondly, it emerged during such interviews that whilst these politicians had raised issues in relation to Direct Provision or had participated in the Joint Oireachtas Committee Meeting in the past, for two of the three interviewed, Direct Provision was no longer as topical and current as it had been and whilst they still expressed sympathy and an interest in the area, their current work focused on other priorities.

Finally, four interviewees fell into the category of 'funders and observers'. This included an expert on advocacy, two funding organisations and an inter-governmental organisation involved in the field. This group was also quite disparate and expertise was provided on specific aspects of the research. Interviewing people slightly outside the categories of 'advocates' or 'policy makers' provided some fresh and objective perspectives from those who observed the process closely without being a primary actor within it. Detailed interview schedules were provided for each of these interviewees, tailored to their specific area of expertise and experience.

### *Limitations of policy makers/observers interviews*

Some of the key challenges associated with such interviews were discussed above. The key limitations or challenges could be summarised as follows:

- Public and civil servants were reticent to discuss particular issues and sometimes provided an official Government position rather than their own interpretations.
- Some public/civil servants were very concerned about protecting their anonymity, whilst others were happy to be quoted in the report or thesis. This provided some difficulties in relation to how to present such data. A decision was made to present all direct quotations or references from this group as anonymously as possible. The only exception to this was the interview with the official from the RIA, where anonymity would have been very difficult to ensure and the interviewee agreed to the use of the interview in such a way.
- The interviews with politicians were somewhat rushed and I was obliged to ask a few very specific questions in a very short space of time. This meant the usual period of warming into an interview and starting with more general questions was not possible. This made the establishment of a more concrete rapport with the interviewee more difficult.
- I was aware of my own positionality whilst carrying out these interviews and whether I may be perceived in particular by public/civil servants as approaching the research more from the NGO perspective. I was aware of this pitfall and tried to be objective in my questioning and not ask leading questions.

### **4.3.6 Secondary data analysis**

Whilst interviews formed a key part of the research process, secondary documentation was crucial in terms of supplementing the data and providing some perspectives on how various aspects of the research are perceived by different groups. Official documentation was analysed in terms of how the state has problematised asylum seekers, their reception and particularly how it views asylum seeking children and families. This was contrasted with the language and discourse utilised by NGOs in their various submissions, reports, press releases etc. NGOs themselves also differed in their approaches, with some taking a strong legal or human rights focus, others focusing more on humanitarian and individual

story approaches and a dichotomy also arising between those perceiving the issues from an immigration or child welfare and rights perspective.

The webcast of the Oireachtas Committee meeting on Health and Children was particularly useful as a way of directly observing the interactions between the politicians, civil servants and one NGO. This was similar to being a direct observer of the meeting as it allowed for non-verbal signs such as body language, tone of voice etc. also to be observed.

During the research process, I also participated in various seminars and meetings in which the topics of Direct Provision and asylum seekers were discussed. This included various events organised by NGOs or academic institutions.

## 4.4 Sampling

### 4.4.1 Overview

The sampling of participants for this study was relatively straightforward given its relatively small and specialised nature. Purposive sampling was used in order to access people who were most likely to be in a position to assist with answering the research question. The table below provides a summary overview of the participants in the study.

**Table 4.4.1 Summary of interview participants**

Participant group / Sub-group	No.
<i>NGO Participants (total)</i>	12
• Children's Sector NGO participants	3
• Immigration NGO participants	9
<i>Public/Civil Servants (total)</i>	4
• Department of Justice (current and former)	2
• Others	2
<i>Politicians</i>	3
• T.D.s	2
• Senators	1
<i>Observers/Funders</i>	4
<b><i>Total Interview Participants</i></b>	<b>23</b>

#### **4.4.2 NGO sampling**

When embarking on the research, it was initially envisaged that a higher number of NGO participants may participate in the research, but after conducting some initial research into the organisations advocating in this area, the number was revised to reflect the reality of organisations which were currently active in advocating at a national level. This also included some regional organisations involved in national fora. Eleven NGOs (12 individuals) participated in the interviews and whilst this number may seem relatively low, the response rate was very high and only four potential participants contacted either did not respond to repeated requests or refused to participate. The two organisations who stated that they were unable to participate in the research stated that this was due to the fact that such advocacy did not form part of their work and they suggested that other organisations were better positioned to participate. These were reasonable responses and verified through closer examination of the work of these organisations. There were however two other organisations whose work may have been relevant to the research who did not respond to a minimum of two written requests and one phone call. Whilst these organisations are not included as study participants, some of their written research material was included in Chapter Three. Those who did participate however represented a considerable majority of the principal organisations working in the area of advocacy for children and families in Direct Provision either specifically or as part of their broader advocacy work. Almost all (except one) national organisations working in this sphere were represented and a cross section of regional and local organisations that also had a specific national advocacy focus.

Appendix One contains a table that summarises the key characteristics of the NGOs who participated in the study. In the case of one organisation, two employees participated in the interview and in all others one person represented the organisation. The individuals who participated were generally self-selected from within the organisation on the grounds of having a role that was most relevant to the study. In many cases this was a person in an advocacy/campaigns role and in some cases someone who worked specifically in the area of asylum seeking children and advocacy on their behalf. All participants had direct experience of advocacy relevant to the study and generally were very knowledgeable on the topic. The level of understanding of the public policy making process and how it can be influenced varied across the participants and usually corresponded to the experience and exposure of the individual to policy and decision-making fora.

#### ***4.4.3 Policy maker sampling***

The identification of relevant individuals to participate in the research from the group of ‘policy makers’ was more complex. As noted in the NGO interviews, the RIA within the Department of Justice was identified as a key agency in terms of being a target of advocacy. An official request was sent by post to the Director of the agency, outlining the research in detail. This request was responded to positively and the director agreed to be the sole interviewee for the agency. This meant that it was not possible to interview others working within the agency. A former official did however also participate in the research.

The HSE was also noted as a key agency who were involved in the provision of services for families and children in Direct Provision accommodation and who worked closely at a national policy level with the RIA. They were also the agency, which was called together with the RIA to answer questions at the Joint Oireachtas Committee meeting on Health and Children. Three key HSE employees were recommended by NGOs as being particularly active in the area, one of whom answered at the Oireachtas Committee meeting. Two employees were however no longer available due to early retirement and the third agreed to be interviewed. Another employee was recommended and also agreed to participate.

As noted above, gaining access to politicians was more difficult. Letters were sent to twelve politicians, identified as having expressed an interest in Direct Provision and particularly those who participated in the Oireachtas Committee Meeting on Health and Children. Of the twelve, three agreed to participate, two of whom were TDs and one was a senator.

#### ***4.4.4 Observers/funders sampling***

Due to reasons of protection of anonymity of this group of research participants, it is not possible to provide details on their organisations or role. They included an expert on advocacy in Ireland, funding organisations or philanthropies and an inter-governmental organisation. They were selected through a combination of purposive and snowball sampling, with two being recommended by other research participants.

## **4.5 Challenges and ethical considerations**

### ***4.5.1 Challenges/Limitations***

No major challenges were encountered during the research process, but a few minor setbacks occurred and there were a few limitations and ethical considerations to consider. The main challenges can be summarised as:

- The study sought to analyse both advocacy and early stage policy making (agenda setting), which presented methodological challenges in terms of ascertaining concrete linkages between the two and tracing how various advocacy strategies and issues of concern were in turn received by government actors.
- The study was conducted within a specialised domain, where many of the research participants knew each other. Preserving anonymity thus proved to be a challenge in the writing of the research. Participants were also guarded in some of their responses and often reticent to name particular individuals.
- It was difficult to gain an in-depth understanding of some policy processes, particularly the internal workings of the Department of Justice. Minutes of many meetings (such as interagency meetings) were generally not available.
- The research did not address the issue of representativeness of NGO advocacy and the extent to which asylum seekers participate in the process, an issue which is important, but beyond the scope of the current study.

### ***4.5.2 Ethical considerations***

A research ethics proposal was submitted to the NUI Galway Research Ethics Committee and ethical approval was granted for the study in May 2011. No vulnerable populations were included as research participants, which limited the potential ethical challenges in the research. The topic and context were however sensitive and a number of ethical issues were considered and addressed during the research process. These are summarised below:

- During the research process, I was aware that asylum seeking children and families were not included as participants, as contained in the original research proposal. This presented ethical considerations. Whilst the inclusion of their voice could have added an extra dimension to the research, it was felt on balance that it was more appropriate not to include them. This was due to the fact that the



research focused specifically on NGO advocacy and its intersection with policy making. It was also felt that asylum seekers had been asked to participate in numerous research studies, with little tangible benefits following. NGOs consulted with also advised on the risk of research fatigue among this community and risks in relation to lack of follow up support.

- As noted in the ethics application, there was a risk that some child protection issues could be raised during the interviews and it was agreed that these would be raised with the relevant person in the NUI Galway Child and Family Research Centre. All participants were notified of this. No such concerns relating to particular individuals were however raised.
- Given the sensitive nature of the topic and the relatively small community of NGOs and public/civil servants involved, issues of confidentiality and anonymity were very important. Participants were notified that anonymity and confidentiality could not be absolutely guaranteed, but that every effort would be made to ensure it. One exception was the interview with the official from the RIA, whose particular perspective was important to capture as it was the main civil service agency to which advocates directed some of the concerns and it would have been very difficult to capture it completely anonymously. In some cases, the perspective of the HSE is also given, but in a way that does not identify the individual research participants.
- I was also aware of my own positionality within the research, having worked with some of the organisations (both NGO and civil service) previously in the capacity of research consultant or evaluator. This prior experience gave rise to the interest in the particular topic and assisted in understanding the particular context. I was also aware of any bias this may have given rise to and attempted to approach the research in such a way that the voices and perspective of divergent actors were listened to.

## **4.6 Data analysis**

### ***4.6.1 Overview***

The analysis of the data consisted primarily of analysis of the interview transcripts, supplemented by analysis of secondary documentation and webcasts. NVivo software

was used in the data analysis and was a useful tool in organising and sorting the data, developing codes and in identifying the linking and comparison of various codes and concepts arising from the data. This section outlines the approach to data analysis, its challenges and how they were overcome.

#### **4.6.2 Analysis of data in NVivo**

The first step in the analysis was reading through the interview transcripts and making initial notes of some points that were particularly startling or striking. These were highlighted and memos (notes) made beside them where appropriate. During this stage, in-depth training was undertaken in the use of NVivo software, with some of the interview transcript material used for practice during the second day of training.

Using NVivo the data was investigated thoroughly, with cognisance of the need to 'describe compare and relate' the data (Bazeley, 2009, p10). This involves describing what the data is saying, comparing what is emerging in each concept across different categories (e.g. to compare responses of different types of NGOs or the interpretation of an NGO or state actor of a particular event) and then relating it to other concepts or what is already known about the area (e.g. analysing the concept in relation to previous studies). In order to fully investigate the data, develop patterns and ensure that exceptions or divergences were noted, the transcripts were analysed through three stages of coding. In NVivo, coding is conducted through attaching segments of data to particular *nodes*, which may be pre-determined prior to coding or can be developed and named during the coding process. A combination of both strategies was used in the following coding process:

- The *first stage* of manual interpretative coding consisted of coding the data based on the interview schedules and key questions, including some key concepts that emerged from the initial reading of the transcripts. In the case of the NGO interview transcripts, this gave rise to fifteen nodes. For the other interview transcripts (policy makers/observers), this gave rise to eighteen nodes.
- The first coding stage involved a more top down coding approach, whereby mainly pre-determined codes were used. The *second stage* was more data-led, whereby codes that were not included in the first round, but were emerging from the data were identified. This was done through reading through the

transcripts for a third time (without highlighting the coding stripes of the first round of coding) and noting new concepts emerging from the data. This data was then coded at new nodes. In some cases, these new nodes reflect a deeper analysis of the data and its classification into more conceptual themes. This gave rise to eight new nodes for the NGO interview data and five for the others.

- The *third stage* involved the combining of nodes and the linking of the two sets of interviews. A new hierarchy of nodes was established, with some similar nodes merged and parent and child nodes identified (QSR International, 2007). Parent nodes were used to refer to overarching themes emerging from the data and child nodes containing the links to the data were organised underneath them. This assisted in the process of organising the data and comparing and relating various ideas and concepts to each other.
- Throughout the process, *annotations* and *memos* were used to note particular points and to assist in the process of deeper analysis of the data. Annotations were made beside particular segments of interview transcripts to note what was particularly noteworthy and to make notes of elements they could be compared or contrasted with. Memos were made to illustrate more general points, linked to particular interviews or nodes. The annotations and memos provided personal reflections on the data and were very useful in the writing process.
- In relation to particular hierarchies of nodes, matrices were developed, some of which were presented in the data analysis. This included for example a framework on the advocacy strategies used by NGOs and how they are related to each other. In the case of NGO advocacy strategies, these were further investigated and broken down further into a series of multiple nodes.
- Some key documents (NGO reports, Dáil debates, transcripts of meetings etc.) were also analysed partly through NVivo and partly through manual analysis. A similar approach was applied in their analysis and in some cases they were linked to certain nodes and memos to enrich the interview data.

#### ***4.6.3 Analysis of quantitative survey***

The survey undertaken as part of the mapping of NGOs active in this particular field yielded few responses and therefore did not form a major part of the research. It was initially envisaged that it would be included in the NVivo analysis and responses compared with the qualitative data of the interviews through a process of triangulation. Where appropriate, the responses from the survey were included and used to supplement the interview data. The analysis of the survey was conducted through Survey Monkey and charts and graphs were designed with the assistance of Excel. Some qualitative responses were included in a memo linked to the data in NVivo.

#### ***4.6.4 Analysis and linking to research question***

Whilst the voices of the actors emerging from the data were crucial in the research process, it was nevertheless not based on grounded theory (Glaser and Strauss, 1999) and the data collection phase commenced with a pre-determined research question whose viability had been tested with some key actors. Whilst the wording of the research question changed slightly during the process and the sub-questions were amended to reflect the data, the central focus of the research remained consistent and the data was analysed with a view to assessing how NGOs advocate to raise concerns of asylum seeking children and families, how this is received and whether there is a link between such advocacy and agenda setting. The second round of coding was more data-led and some new concepts or ideas emerged that were not envisaged in the sub research questions or interview schedules. These included for example a strong focus on politicians (and by-passing some civil servants), the role of legal avenues and test cases and internal advocacy within the public sector. These new concepts did not distract from the primary research question, but rather enriched it and provided new perspectives. This was also perceived as an advantage of taking a constructionist and qualitative approach to the research as new dimensions were added by the research participants that could not have been captured in a purely quantitative paradigm.

#### **4.7 Chapter conclusions**

The overall approach to the methodology is one which can be described as ‘situated’ in which the data, methodological approaches and theoretical concepts are constantly related to each other and the research is designed to fit to the realities of the research context. The research design carries many similarities with a case study approach, as outlined by Yin

(2003) but goes beyond a traditional case study in some respects. The research design commenced with an overarching exploratory research question, but was slightly amended to reflect the realities of what emerged as most feasible and relevant. The research was conducted within a constructionist tradition, with the meanings and interpretations of actors in the process regarded as central. It was not however, based on grounded theory and took an abductive approach whereby theory and data were placed in dialogue with each other. The research data was used in some instances to test, confirm or discredit certain theories, but also to propose new approaches to exploring the intersection of advocacy and policy making.

## **Chapter Five:**

### **NGO Advocacy Strategies**

#### **5.1 Introduction**

Research on advocacy in the Irish setting has shown that whilst the capacity of advocates may be strong in some cases, much emphasis was placed on low-impact incremental advocacy rather than more risky higher impact or breakthrough advocacy (Keenan and Montague, 2010, Hodgett and Sweeney, 2009). The report to the One Foundation on advocacy (Hodgett and Sweeney, 2009) noted that one of the greatest challenges to achieving desired changes was the nature of government, but that several interviewees had not undertaken structured analysis of this challenge. The relationship with government and difficulties in both sides seeing the other's perspective was also identified as a clear challenge (Keenan and Montague, 2010). Presenting actionable and accountable arguments to government remains crucial, in addition to developing a clear strategy and knowing when and where to direct the argument. The identification of windows of opportunity resonates both in the policy literature on agenda setting (Kingdon, 1995, Baumgartner and Jones, 2009) and in analysis of advocacy for policy change (Quinn Patton, 2008).

This study focuses on how NGOs advocate in relation to the reception conditions of asylum seeking children and families, with a particular emphasis on the intersection of such advocacy with agenda setting. In Chapter Three some of the concerns articulated by advocates were delineated. This is the first of three findings chapters and presents the particular strategies that advocates use in attempting to raise their concerns in relation to asylum seeking children and families. Both the quantitative survey and the interviews with NGO participants concentrated on the particular means or tactics they use, addressing the first sub-question of *what do they in order to raise their concerns*. The NGO advocates spoke both in terms of what they have actually done and continue to do and the strategies they believe are effective. In some cases this distinction became somewhat blurred and further probing assisted in delineating the differences between actual tactics used and their opinions generally on effective advocacy strategies. Where possible, these distinctions are noted. In many cases advocates presented what they felt were useful strategies and this was followed up by particular examples. This chapter presents an overview of the broad strategies NGOs employ, what they find effective and

why they have chosen them. Particular concerns and the way in which they raise them are outlined further in Chapter Six, which also traces how NGOs have evolved their strategies over time in order to achieve greater success. The third findings chapter (Chapter Seven) provides the response of the State and particular interactions between NGO advocates through particular episodes. The three findings chapters draw mainly on empirical data, with an analysis of some of the key findings in light of a revised theoretical framework provided in Chapter 8.

**Section 5.2** provides an overview of advocacy strategies and how they raise their concerns, drawing primarily on the analysis from NVivo of strategies NGOs stated they found effective in the interviews. In some cases this is supplemented by data from the survey. These are grouped into clusters of responses, ranging from forms of co-operation and collaboration with state actors to confrontational and blocking strategies. The distinction between outsider and insider strategies is also noted (Walker, 1991), with Section 5.2 focusing mainly on insider strategies. **Section 5.3** provides an overview of how NGOs use outsider strategies and the relevance they attach to them. This is followed by a brief **section 5.4** on the role of funding and philanthropic organisations, which emerged during the interviews.

## **5.2 How advocates raise concerns and strategies they use**

### **5.2.1 Overview**

Taking a broad overview of what advocacy is and what it entails means including a wide range of strategies and tactics under the broad heading of advocacy that is oriented towards achieving social change (Andrews and Edwards, 2004). These can include tactics from direct lobbying and campaigning, confrontational approaches (sit-ins, protests etc.) to broader public education and awareness-raising. The distinction Walker (1991) makes of insider strategies focused on achieving change within the political system or outsider strategies focused on influencing the wider public is relevant in this regard. Gaining an understanding of which advocacy tactics were employed was relatively straightforward and many interviewees talked at length about the particular tactics they used and why they chose them. On the other hand, exploring their effectiveness and the influence they may have had on policy-making is more complex and involves accounting for a range of other factors.

This section focuses mainly on the accounts of NGOs on the particular tactics and strategies they employ in their attempts to highlight the issues of families and children in the Direct Provision system. It focuses on the strategies they stated that they adopt and their reasons for choosing particular strategies. Where individual participants are referred to, they are always referred to as ‘she’ regardless of actual gender. Participants are not given unique identifying numbers or pseudonyms in order to preserve confidentiality, as linking a number of excerpts or information relating to one person could lead to identification of the person or organisation, given the relatively small sample.

### ***5.2.2 Obtaining the perspectives of NGO Advocates***

A total of thirteen NGO respondents from twelve organisations took part in the research, with six completing the survey questionnaire and twelve participating in the interviews (of whom five also participated in the survey).<sup>20</sup> The two data collection phases are combined here, with the most important being the qualitative interviews as they provided deeper descriptions, linked different events and processes and the sample included a greater percentage of organisations working in this field. Whilst not every relevant NGO participated, the level of participation was high and almost every major national organisation working specifically in this area and several regional ones were represented.

In the interviews NGO participants were asked about which types of strategies they found were effective and to describe some examples of how they used advocacy and the effects it had. Respondents also gave unprompted responses to the strategies they felt were effective. As part of the first and second round of NVivo coding of interview transcripts, responses were coded to ‘advocacy strategies and their effectiveness’. This produced a large volume of transcript excerpts, amounting to 117 references. A third round of coding then broke these further and nuances, patterns, contradictions and exceptions in the data were sought (Bazeley, 2007). The third round of coding resulted initially in the generation of new codes<sup>21</sup> that highlighted some of the advocacy strategies used by advocates and some insights on why they felt they were effective.

### ***5.2.3 NGO perceptions of effective advocacy strategies***

A distinction can be made between particular tools or tactics that NGOs employ in their advocacy work, such as letter-writing, protests, meetings, policy submissions etc. and

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<sup>20</sup> For a profile of NGOs, see appendix 1.

<sup>21</sup> In NVivo, such codes are termed ‘nodes’.



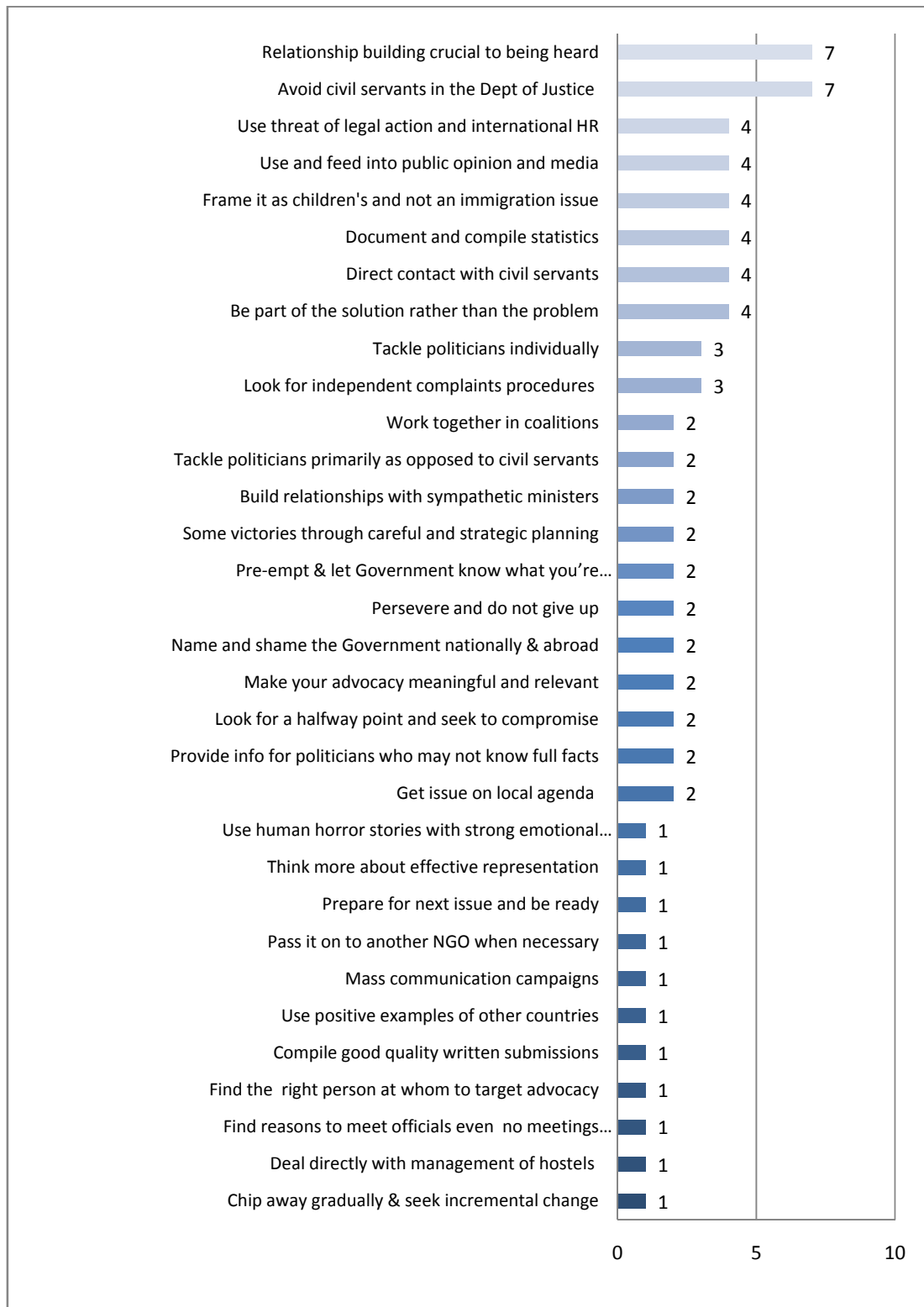
broader strategies or approaches. The survey<sup>22</sup> paid more attention to practical tools advocates use, with the interviews focusing on both.

In the interviews, advocates were probed to provide examples of advocacy tactics or broader strategies that had worked, why or why not and their focus for the present and future. As a first stage of analysis, these descriptions of ‘strategies that are viewed by NGOs as effective were grouped; and the table below summarises in raw format the common strategies mentioned and lists the number of references to each. The language used in this initial list mirrors that of the research participants, with references included together if the meaning and language were very similar. It is evident from this that the use of the term ‘advocacy strategies’ was interpreted broadly and ranges from very broad approaches to very specific activities or tactics.

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<sup>22</sup> For a detailed analysis of the survey, see appendix 3.

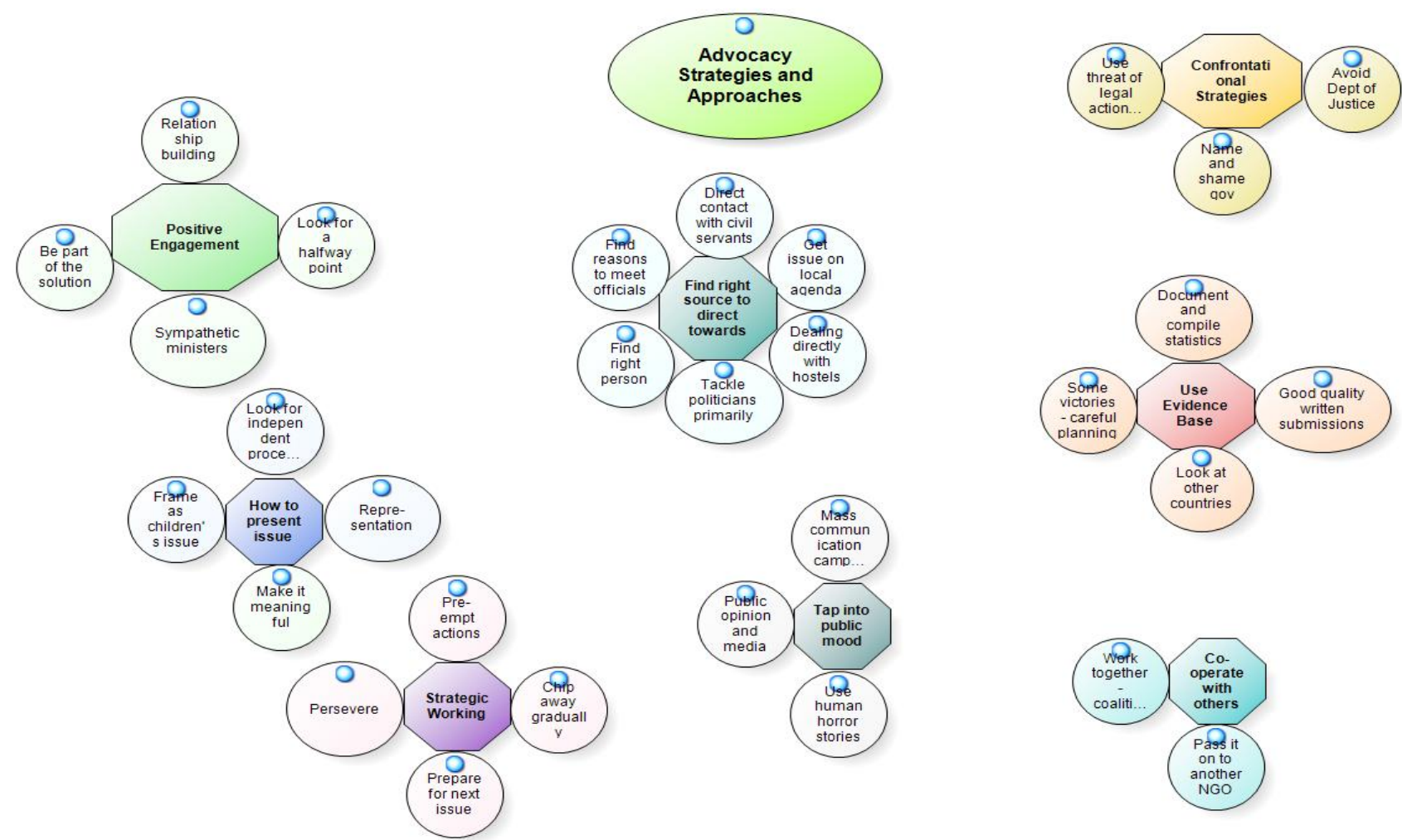
**Figure 5.2.3.1 NGO perspectives on effective advocacy strategies**



Interestingly, an immediate contradiction emerges here, whereby both relationship building and avoidance of particular civil servants are the most frequently mentioned tactics. As discussed later, the avoidance of civil servants does not necessarily equate with a confrontational strategy, but may stem from a desire to avoid such conflict and thus step away from situations that have the potential to become conflictual. Its effectiveness as a strategy is analysed further in Chapter Six.

After grouping the responses of the advocates under the heading of ‘strategies viewed as effective’ the next stage of analysis involved grouping such tactics into thematic areas and further analysing them under such clusters. The figure below, imported directly from the coding in NVivo displays the specific tactics NGOs referred to under broader headings. Each sub-heading represents a node in NVivo, which are directly linked to excerpts from the interview transcripts. The following sub-sections then provide details on these particular strategies, illustrating the participants’ explanations of why they choose them or view them as effective. These are grouped under the broad clusters of responses as indicated in the diagram. This section presents the participants’ views on such strategies and does not attempt to offer objective analysis on their effectiveness.

Figure 5.2.3.2 Visual representation of advocacy strategies from Nvivo



**(i) *Fostering positive engagement***

The first cluster of responses termed ‘positive engagement’ focuses very much on how NGOs value positive engagement and building good relationships with the Government and those at whom their advocacy is targeted. The highest number of responses belonged in this cluster and it was reiterated throughout the interviews when respondents spoke of how they approached their dealings with Government officials and politicians. Respondents were also aware of how having a positive attitude and building good relationships was crucial, but recognised some of the difficulties inherent in this in practice, particularly when they felt that this goodwill was not reciprocated or they were not being listened to.

Interestingly, a strong focus on positive relationship building and ‘being part of the solution rather than the problem’ was particularly evident in the responses from the children’s NGO sector, with all sources for the node ‘be part of the solution’ stemming from this sector and three of four who strongly emphasised building positive relationships also within this sector. This concurs with the findings of the Advocacy Report (Keenan and Montague, 2010), in which the children’s NGO sector was heralded as being the sector who had built the most positive relationships with Government. NGOs who dealt primarily with the Department of Justice (mainly in the immigration sector) placed less emphasis on positive relationship building and recounted more difficulties in fostering such relationships, particularly with civil servants. Three NGO participants emphasised how advocacy should not just be about being negative, but should also be very solution focused and governments are more likely to listen to those who offer clear solutions rather than simply complaining about what is not working. This position was summarised by one children’s sector interviewee as:

*There is that sense of actually saying ok right, I hear what you are saying that that’s the problem, we don’t have the money to do that so what else can we do? It’s the nature of the engagement.. something is written and it’s evidenced and it’s got a clear roadmap, clear solution, clear rationale as to why you need to do it, mapping out all the different angles for them and when you get in to the conversation, it has to be a working conversation of like – we need something to happen, what can you do? And figuring it out (NGO, children’s sector).*

A number of respondents spoke directly and indirectly about being solution focused in their approach to advocacy and occasionally criticised other NGOs who are perceived as more confrontational. This may be contrary to understandings of advocacy in which some element of conflict is inherent (Andrews and Edwards, 2004).

A respondent from the children's sector who was probed on whether the role of NGO advocacy was also to be 'a thorn on the side' of government responded: 'Yes, but do it in a way that's creative and smart because if you just criticise and don't offer the solutions then that's a problem I think'. This was also linked to the need to be fair and build up a positive reputation and gain trust. One respondent from the children's sector who spoke several times during the course of the interview about the need to build a 'two-way street' and establish good lines of communication both ways showed a wariness of approaches by other NGOs that were perceived as being overly adversarial and how 'there might be a perception that NGOs are just there to say you're doing this wrong, this wrong, this wrong.' This participant sought to counteract this with being involved in particular interagency groups that were made up of both NGO and government actors. She emphasised working together, attending joint meetings and finding joint solutions and felt that the strength that NGOs were able to bring lay in the fact that they may be closer to the issue and keep their fingers on the pulse of what was really important. This contrasted somewhat with some responses of the immigration sector, both regionally and nationally who spoke of more fraught relationships, more adversarial advocacy approaches and did not necessarily perceive themselves as joint actors working co-operatively in the formulation of solutions.

Building relationships with various actors and seeking access through different fora was highlighted as important by all respondents. In the children's NGO sector, the fact of having a full minister for children was recognised as important and former junior ministers for children who were seen as sympathetic were also perceived as playing an important role. The notion of compromise, being realistic and accepting that it is not possible to have all demands met resonated with almost all respondents. This is reflected in previous observations of the Irish advocacy sector as concentrating on incremental change rather than 'breakthrough advocacy' (Hodgett and Sweeney, 2009). Views in relation to whether advocates should still 'aim high' or concentrate on smaller incremental changes varied. Variations existed between those seeking to abolish Direct Provision completely (a goal of the Forum on Direct Provision of which seven of the

participants were members) or those who sought changes within the existing policy framework (e.g. improvement of conditions within Direct Provision). One respondent felt it was still important to have a goal and recognised the differences in what the NGOs were seeking and current government policy, when she stated:

*I don't think Direct Provision is ever going to be abolished. I think we need to set our sights high. But I don't think realistically it's ever going to be abolished. I do think there's a vast scope to reform the system. We're never going to get all the things we ask for, but we could get a half way point between what they're saying and we're saying (NGO, immigration sector).*

This was also linked to being strategic and choosing the appropriate moment and person to make certain demands (opening of policy windows). This was particularly the case with elected representatives, with whom there may have been a perception of a shorter window of opportunity to address. One member of the Forum on Direct Provision explained how at a particular briefing of politicians, it was important to be strategic and not to 'bombard them with abolishing Direct Provision', but instead initially concentrate on asking for an independent complaints procedure whereby residents of hostels would feel comfortable and supported in making complaints themselves (initial focus on incremental change).

## **(ii) Confrontational advocacy strategies**

Whilst few respondents stated that they engaged directly themselves in confrontational strategies such as direct protest, marches etc., there was an acceptance among some respondents that trying to always work in a co-operative manner with the Government was not the role of successful advocates. There was a sense of frustration among some, particularly in the immigration sector in relation to working directly with the Reception and Integration Agency (RIA). As discussed later, a frequently encountered tactic was to move away from trying to work with officials in the RIA and target politicians instead, thus moving from more hidden advocacy to more public forms. Whilst a minority of organisations still tried to liaise with the RIA, others had abandoned the idea. This view was reiterated by most respondents in the immigration sector, as demonstrated below:

*So, you're trying to get at the political system that will then inform RIA to change certain procedures. I don't think anybody has had much success in trying to work with RIA directly. I think it has been tried independently, all the separate groups working on their own a couple of years ago. We've all tried to do this, yet there's been occasional successes here and there where*

*you got someone moved from this place to that place, but there wasn't a lot of joy in trying to interact with RIA directly and there's a huge amount of frustration within the sector because of that experience. It seems to be the experience of most of the NGOs. I think that's arising from that frustration that people wanted to get together to say right if we can't change it on this level, we need to go higher (NGO, immigration Sector).*

Some advocates who continued to engage with the RIA spoke about a range of conflicts (both latent and manifested) that had emerged over the last five years, ranging from being told they could no longer attend interagency meetings, preparations for the Joint Oireachtas Committee on Health and Children and some frustration around trying to find solutions for individual cases (transfers etc.). One advocate remarked that such difficulties in themselves were perhaps not so negative and were an indication that they were effective in their work as advocates and described it as 'They know that you've been effective. So it's gratifying when they say 'here they come again''. A minority of respondents (two from the immigration sector) spoke of relatively harmonious relationships with the RIA and whilst they disagreed with their implementation, they found a way to work with them on a range of practical issues. Such advocates placed slightly less emphasis on seeking wider political change and more on improving individual situations through improved policy implementation and tended to work in a more behind the scenes and hidden manner.

Another strategy that could be classified as more confrontational was the idea of 'naming and shaming the Government', indicating a desire to expose the issues in the public realm. This applied to both appealing to the public and in front of the international community through international human rights monitoring processes. Putting such issues on the public agenda was identified by some as crucial in terms of then being able to influence the political process, as explained by one respondent who reflected on how the political agenda is shaped:

*There is an element in a sense that they could fall on it. It's politically dangerous if they don't do something about it. And that is the pinnacle of getting it on the political agenda for me. Lots of things get on the political agenda, lots of things get on the agenda but they don't have that public factor that the public is watching this. (NGO, children's sector).*



### *(iii) Ways to frame the argument*

In relation to the substantive issues of what the advocates were aiming for, many spoke about the importance of framing the argument (whether a problem or solution) in a particular manner. The manner in which the respondents sought to frame their arguments varied, with each organisation having a particular focus or approach to their work. Organisations were also conscious of building up their own brand and developing particular expertise. Inherent in some of the observations by respondents was often a sense that they felt that particular approach worked for them, as opposed to approaches used by other organisations.

One respondent from the children's sector spoke several times during the course of the interview about the need to make it 'meaningful', a term used seven times. This included phrases such as 'use examples to make it more meaningful' or 'I think we don't make the issues, the issues are there and we're just trying to elevate them and make them meaningful'. This respondent also spoke strongly about tapping into the public mood and letting people know that there are ways to bring about change and the use of the term 'meaningful' may have referred to helping people to relate to issues and understand them. This desire to make the arguments more pertinent to the public was found more in the children's sector organisations, with evidence of motivational framing tactics used to attach salience to the issues (Hojnacki et al., 2012). Respondents in the immigration sector were somewhat less optimistic about their ability to frame the argument that made sense to the wider public, given the challenges associated with such advocacy.

For some organisations, framing the argument as a children's issue was given greater weight, with some differences noted between children's and immigrant organisations. One of the children's sector organisations viewed their role as a large children's organisation as a distinct advantage as 'it brings with it some extra points in terms of advocating on behalf of these young people as supposed to say if it was in another small organisation or an organisation primarily seen as a refugee type one'. This was reiterated by another organisation who spoke of greater weight attached when a 'mainstream organisation' became concerned about an issue. This also highlighted an interesting point of what is considered to be 'mainstream' and why and whether the corollary of this may be that the specialist immigrant organisations are viewed as being more marginal. This was also linked to the question of whether asylum seeking children are viewed first and

foremost as children or by virtue of their immigration status. All advocates agreed that they should be seen first and foremost as children, but in some cases the arguments proposed were located more directly in the immigration law and policy sphere, with little emphasis on the particular rights of children.

Some organisations (particularly within the immigration sector) focused on the issue of representation and how to frame an argument in a way that is truly representative of asylum seekers, but also struggled with the issue of representativeness and barriers surrounding the participation of asylum seekers (such as lack of right to work, organisational difficulties, resources etc.). It was also noted that conditions can vary greatly throughout the State and that recognition of local particularities was important. As discussed in the section on the Joint Oireachtas Committee meeting, all NGOs working directly on the reform of Direct Provision expressed concern and frustration with the Independent Complaints Procedure, recently reformed as a result of NGO interventions.<sup>23</sup> Whilst the new procedure laid down a structure of complaints in theory, NGOs felt it was not independent and there was little faith in it. As a result, some NGOs felt that this placed a higher burden on them to continue working on behalf of individuals, instead of having a procedure that worked to resolve difficulties as they arose. One immigration NGO respondent talked about how the organisation no longer wished to be involved in such day to day advocacy and wished there were ‘people who are competent to deal with the issues as they come up. You’ll find that you’ll be better off and you won’t be chasing after people who aren’t happy with their meals’.

*(iv) Use of good quality evidence base*

Almost all respondents emphasised the importance of having a strong evidence base and providing clear and accurate documentation for their work. This included compiling statistics, conducting research (internally and externally), preparing detailed submissions, drawing on international human rights law, conducting international comparisons etc. These were all seen as very important steps in the framing of an argument and increasing their credibility. Having an evidence base was also seen as a necessary step in developing a policy position, as explained by one participant:

*My personal understanding is to be a good advocate or to advocate you need to have a very well developed policy position. I suppose that is where I’d start*

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<sup>23</sup> For a further discussion on this committee meeting, see Chapter Seven.

*from, whether it be a deficit thing, so we know that there is a problem and we can evidence the problem (NGO, children's sector).*

This resonates with the notion of problem definition and how and by whom an issue is defined as a problem. NGOs can play a role in suggesting that particular problems require government attention (Kingdon, 1995). Evidencing the nature of the problem was viewed by most advocates as essential, as shown in the wide number of research reports and submissions they produce. Advocates also spoke with pride about some of the submissions or reports they had compiled and how they felt they had been taken seriously by Government officials, even if they disagreed with their findings. One respondent spoke about how a senior official carried their report with him to meetings, an indication that it was taken seriously and another commented:

*We wrote a very good submission on X. And the officials told us that effectively if they could have just taken the title off and written our title that would have been great, because we really provided them with the type of material that they needed (NGO, children's sector).*

Having good evidence and research was perceived as an important step in developing solution as one respondent who described how the first step in advocacy involved:

*Based on evidence or research if you've got some sort of problem and then we will in the main focus on trying to develop a solution to that or a response or challenging the government on who is addressing this, so we know the problem how are you going to address it? So creating that position which should have some sort of fact, some sort of evidence and some sort of sense of accountability (NGO, children's sector).*

A minority of respondents (n=2) also spoke of the importance of looking at what other countries are doing in relation to asylum seekers and how involving politicians and civil servants in examining such projects can be a useful way of encouraging joined up thinking and looking at new solutions. Such initiatives however they found were difficult to implement and particularly to engage civil servants.

**(i) Working together with other NGOs**

All NGO participants of the interviews and survey (except for one) stated that they were involved in coalitions with other NGOs and all reported positively on their engagement with such coalitions. This resonated throughout the interviews and for some advocacy

work was synonymous with NGOs working together, which could be viewed in terms of building issue networks (Marsh and Rhodes, 1992). Poor resources, lack of time and an overall belief in strength in numbers were seen as important reasons for doing so. Seeking an end to Direct Provision was a goal held by all within the Forum on Direct Provision (made up of NGOs). The role of such coalitions was cited as being important for reasons such as ‘just having a direct statement, that we are all on the same page that we are not all lobbying for different things across the country, we’re saying the same thing’ (NGO, immigration sector). Whilst a large proportion of interviewees who were members of such coalitions spoke at length on the work they did in such coalitions, when asked about effective advocacy strategies few respondents replied directly about co-operation with other NGOs. This may have been because it was not viewed as a strategy in itself and possibly for organisations who were so accustomed to such coalition work, it might have been perceived as so normal and therefore not particularly noteworthy. Three respondents also talked about how individual cases can be solved more quickly by drawing in the assistance of another NGO which may be better placed to deal with a particular issue. One example was where a regional immigration NGO worked at length on seeking a transfer for an ‘aged-out minor’ and after a long period of not having any success, they passed it to a national NGO dealing specifically with such issues and it was resolved positively within one week. This respondent did not believe however that this would always be the case, but talked about how such situations are patchy and there may be an element of luck involved.

**(ii) *Work Strategically***

Most respondents were very aware of the need to be strategic and reflected on the potential consequences of their actions. Whilst not all advocacy observed necessarily achieved its intended outcome or was implemented in the most strategic manner possible, there was still strong evidence that the NGOs were not naïve in their assumptions and took strategic decisions based on the set of circumstances they were presented with. Building strategic rapport with particular officials and politicians was mentioned as a clear strategy. Two respondents also spoke in depth about how it was both in the interests of the NGOs and of the Government to pre-empt what was happening next and for both sides to be prepared. One example of how this worked in practice is explained in the following excerpt from an organisation in the children’s sector that built up a good relationship with Government players, but also knew how to work on this relationship in

order to put their own concerns on the agenda. It also demonstrates the principle of reciprocity and how providing certain reassurances to Government may ensure a more favourable response:

*We had both a formal and informal meeting with Minister X. We've had a good rapport. We had told them that if we criticise you we are going to forewarn you, not to take the sting out of it but just to say 'we are not happy with this', an element of flagging it. We've said we will not breach trust if you give us confidential material and we've been given a load of confidential material and not breached trust on so that gets built up over years.*

Such pre-empting of advocating for the next issue by the Government was also recalled by a respondent who said they were taken by surprise when a minister who had read their report in detail started a meeting by going through all their recommendations in great detail and commenting that it was important for the Government to know what the NGOs were likely to throw at them, so they would be prepared and in a position to pre-empt some of it.

The manner in which various NGOs talked about how they prepared for meetings with ministers, officials and Oireachtas committees and the alliances they sought during such preparation phases also indicated a sense of strategic direction about their work. There was also an acknowledgement by most respondents that small incremental steps were necessary and that 'they're little chinks that we build on that will hopefully lead to change in the future' (NGO, immigration sector). Another respondent talked about how giving an issue time may be a strategy itself.

### **(iii) Find right target to direct advocacy**

A large proportion of the interviews concentrated on the people to which advocacy activities were targeted and various aspects of this are covered later in this chapter and the following one. When asked about which advocacy strategies were effective, most respondents identified knowing to whom and when to direct their messages. The presumption of targeting 'policy makers' was challenged and broken down, revealing a somewhat complex picture in which it was sometimes difficult to identify who the real 'policy makers' are. NGOs attempted to discern who makes which decision, how receptive they are to advocacy and how to find allies in the public service who may play an internal advocacy role. As discussed in the next chapter, policy making in this area is a complex process and one of the issues NGOs struggled with constantly was finding the

appropriate target where could address their advocacy. A clear finding emerging from this study was the overall complexity of finding the right people, places and timing where advocacy could be directed, revealing a complex and somewhat messy politics stream in which decisions are negotiated (Kingdon, 1995, Zahariadis, 2003). In relation to the Department of Justice in this study, this appeared to carry its own particular complexities. The channels of advocacy for those working in the immigration sector and dealing primarily with the Department of Justice seemed somewhat more complex and sometimes difficult than those working in the children's sector, who dealt more generally with the Department of Children where clearer lines of communication may have been established.

Communication of a message to the relevant people was identified as an important step in any advocacy strategy and both the methods of communication and people to whom they were communicated varied. One respondent summarised how this operated in terms of it following on from developing a clear message:

*Then the next part of the advocacy work is to communicate that to the relevant people, so to identify who is the relevant person and to communicate that. Sometimes for example some of our work would be a direct submission into the agency, uncalled for or called for but it's— we're just advocating directly to you, but we generally would try and top that up by media work to draw attention to it so whether it's social media or media work (NGO, immigration sector).*

Particular advocacy strategies highlighted as having worked relating to identifying and approaching targets of advocacy included approaching the management of local hostels directly (n=3), providing briefings for politicians in the Dáil (n=4), attempting to put the issues on the agenda at county level through county development board structures (including local anti-racism strategies) (n=2) and targeting specialist interagency groups made up of government and non-government sectors (n=4). All respondents stated that they were involved in some form of written or verbal communication with civil servants, which in many cases related to individual cases. This was however not necessarily perceived as an advocacy strategy *per se*. One respondent also talked about 'finding reasons to meet officials' even when no meetings were scheduled, which formed part of a strategy of keeping the lines of communication open, and are part of the more hidden or insider strategies used by advocates. Most respondents felt that finding the right person or group of people was essential to any advocacy strategy and considerable effort was put into fostering relationships, which advocates felt were worthwhile.

### **5.3 Outsider strategies and influencing public opinion**

#### **5.3.1 Overview**

It became apparent from the majority of interviewees that insider strategies focusing on influencing elected representatives and civil servants to a certain extent were the dominant strategy in this domain and particularly in the immigration sector few organisations focused heavily on outsider advocacy strategies (Walker, 1991). Kingdon (1995) emphasises the ‘national mood’ within the politics stream and how it can affect the agenda. There was a sense by some within immigration organisations that directly attempting to influence public opinion may not be effective and that there was little public appetite for such issues during the economic recession. Within some children’s sector organisations however, which generally may have had a higher media and public profile there was less reluctance to attempt to influence public opinion; and as discussed in earlier sections, framing it as a children’s issue was perceived by them as a more effective way of raising awareness.

In attempting to assess the processes of issue emergence and how issues are put on the public agenda, the role of the media and public opinion cannot be ignored (Carpenter, 2007, Birkland, 1998). Important linkages exist between attention of the media to particular issues, politicians focus on them and issues of concern to the general public, but difficulties lie in ascertaining who is influencing whom. Kingdon’s model of agenda setting (1995) has been criticised for its relatively low attention paid to the role of the media. Whilst Kingdon (*ibid*, p58) does recognise that media attention does affect legislators’ attention, he attributes this firstly, because they, like others, follow mass media and secondly, because media affect their constituents. However, he later concedes that media generally report what is going on in the government rather than having an independent influence *on* government agendas (*ibid*, p59).

For some organisations (particularly in the children’s sector), engaging with the media and the public were important in any advocacy campaign and influencing and drawing upon public opinion were clear strategies. Under the politics stream in Kingdon’s framework, the national mood features as an important element, demonstrating how large numbers of people may be thinking along similar lines (1995, p146). According to

Walker's (1991) classification, such strategies are termed outsider strategies and are geared towards influencing public opinion and the media that may in turn affect policy making.

### ***5.3.2 Advocates use of outsider strategies***

Almost every organisation interviewed (9 out of 11) spoke of some form of media and wider communications strategy, which were much more developed in larger organisations with a broader communications remit, including dedicated staff. The title of the role of three interviewees included the word 'campaigns' or 'campaigning' in addition to advocacy, which may indicate a focus on broader campaigning. Six organisations also had at least one dedicated communications or external affairs staff member.

During the interviews, respondents were asked about whether they also attempted to influence public opinion and to what extent they engaged with the media. Some respondents (n=4) also referred to this spontaneously earlier in the interview when asked about advocacy strategies in general. This was confirmed in the quantitative survey where 100% reported they engaged in preparing press releases as an advocacy strategy, with 50% stating they did so frequently, 33.33% sometimes and the remainder rarely.<sup>24</sup> Although almost all reported some level of engagement with the media and attempts to raise awareness of issues, the reasons for doing so were relatively broad and were often linked to broader goals of policy influence.

Organisations that were larger and had dedicated communications departments were obviously better placed to engage in mass media strategies. These involved sending campaign messages to mailing lists of up to 10,000 people, asking people to target their local TDs, on-line campaigning, use of Twitter™, Facebook™ and other social networks, which were more prevalent among children's sector organisations (possibly also due to greater resourcing). One respondent explained how cultural change needs to happen alongside legislative and policy change and how they are intrinsically linked.

*There can be a tendency for people to say oh God that's terrible that goes on and that's a natural impulse for people to have, but we want to talk about it in a way that people will say, that's awful that's going on, but that needs to stop and here is what needs to happen. So we're trying to present it in that way...within Ireland it needs to be a cultural change as well as legislation (NGO, children's sector).*

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<sup>24</sup> See Appendix 3 for further details.



Another respondent explained how the use of ‘horror stories’ resonated both with politicians and the Irish public and were more likely to leave a lasting impression than a legal argument. Such approaches were used to attach greater salience to their arguments in attempting to place them in the public domain. Some of the organisations in smaller organisations in the immigration sector however placed less emphasis on influencing public opinion and large-scale campaigns. This was partly a resourcing issue, but some also felt that there was little public appetite for sympathy with asylum seekers living in Direct Provision.

The table below summarises the principal public awareness and media strategies reported and the reasons given for using them.

**Table 5.3.2 Outsider strategies and their purposes**

<b>Outsider Strategy</b>	<b>Purpose</b>
Press Releases	Counteract negative media coverage or stereotyping, including providing clarification of facts of particular cases
	General awareness-raising about refugee and asylum issues, which may also assist the integration process as people gain a greater understanding
	Embarrass government and pressurise them in relation to particular issues (indirect method of policy influence)
Media features	Approach journalists to take a particular interest in a story/situation and to highlight it in print media/TV etc.
Media analysis	Review of media coverage of the work of the organisation and related issues as an monitoring and evaluation tool
Public campaigns	Large-scale media and billboard campaigns to highlight particular messages (children’s organisations)
Social & electronic media (E-mail, blogs, Twitter™ Facebook™)	Campaigns and awareness-raising to reach a wider target audience. Also used to encourage people to contact TDs in relation to particular campaigns

Respondents offered a variety of viewpoints on the usefulness of outsider strategies such as public awareness-raising through media. One respondent in the immigration sector when asked about its role appeared surprised and replied that their focus was on changing government policy and not on changing public attitudes. Some others also did not view it

as central to their work, but nevertheless acknowledged the links between public attitudes and policy making, particularly by politicians who were likely to be influenced by public opinion. One respondent in particular talked about how a particular campaign they were involved in with other NGOs that developed its own steam and the media became very interested in it, which was perceived as very useful as:

*.. then the politicians know that they'll get that on the doorsteps, that that is a political issue, it is on the political agenda, it's not going to go away. Christmas isn't going to take over and we are all going to forget about it. There is an element there of in a sense that they could fall on it. It's politically dangerous if they don't do something about it. And that is the pinnacle of getting it on the political agenda for me. Lots of things get on the political agenda, lots of things get on the agenda but they don't have that public factor that the public is watching this (NGO, children's sector).*

This also touches on how issues are put on the agenda, the influence of public opinion and how politicians may feel more pressurised to act once they are aware that there is public interest in it. She also focused on the issue of the need for staying power and how issues can appear and fall off the agenda, but some remain. This may be linked to the public attention focused on the issue and whether not doing anything about it poses a risk politically. This falls within the 'political' which includes factors such as the national mood, how politicians sense their constituents' mood as well as organised political forces (including interest groups) and the government itself. Kingdon (1995, p163) emphasises the role of the political stream as 'an important promoter or inhibitor of high agenda status' and notes how the important actors in the system judge whether the balance of forces favours action and whether such a direction would be tolerated by the general public.

Such a sentiment also resonated with advocates who talked about previous campaigns to close down the hostel accommodation for separated asylum-seeking children and how public interest, media attention (including a television documentary) and a general focus on residential institutions for children through the abuse inquiries combined together to shine a spotlight on the issue and 'embarrass the government into action'. The fact that so many children were reported missing from HSE care in the hostels was reported as a factor that led to greater levels of public shock. Another campaign that was also perceived as having led to substantial changes in government policy included the CADIC<sup>25</sup>

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<sup>25</sup> Coalition Against the Deportation of Irish Born Children

campaign against the deportation of Irish born children. This was seen as having contributed to the introduction of a scheme in 2005 to allow certain Irish born children and their families to remain in the country (Harvey, 2008). However, as one respondent pointed out, 'it all becomes very emotional when somebody is about to be deported, that's different to 'I don't live in very good conditions' or 'my food isn't very good''. This was reflected in several other responses from both NGOs and observers who felt that campaigning in relation to Direct Provision sometimes lacked the public shock factor and it was difficult for the public to fully empathise in the absence of more emotional factors such as deportations, child abuse, missing children, child deaths etc. This may partly explain why the use of media strategies was considered important but not central in advocacy related to reform of the Direct Provision system.

One of the observer group participants also emphasised how the media is particularly important and to understand the linkages between who influences whom in terms of policy making and role of the media and public opinion. She compared the situation of countries like the UK and France where far right political parties and election campaigns that are heavily based on emigration dominate to a much greater extent. Whilst a comparable situation had not yet arisen in Ireland, she warned that it may become more relevant in the future.

The role of the media also emerged as an influential factor in an interview with a civil servant in the Department of Justice who made references to keeping issues out of the 'headlines' and how problems may be perceived as under control when they no longer appear 'in the headlines'. This was now perceived to be the case with Direct Provision, which no longer featured strongly in the newspapers, unlike the situation in 1999-2001 when it dominated the headlines due to large numbers arriving and the risk of homelessness.

*And (the Government) also had to deal with the political aspect of it, which was that the problem was by that stage dominating newspaper headlines, mainly in Dublin (RIA representative).*

Other observers and former policy makers also referred to how the Department of Justice and government departments in general did not seek media attention and were often satisfied when issues (problems) were not reported in the media. This was contrasted with the attitudes of NGOs that often sought to promote their work and highlight relevant issues in the media.

## 5.4 Funding environment and the role of philanthropy

Whilst the purpose of the research was not to focus on the funding arrangements for NGOs in this sector, the role of funding and the precarious nature of it emerged in many of the interviews. In some interviews, a lack of willingness to divulge very detailed information on funding was observed, possibly due to the sometimes confidential nature of philanthropic funding. Some NGO interviewees raised the issue of funding and how it affected their work in a number of respects and the perspectives of two principal funders (one philanthropic and one public organisation) were also obtained through interviews.

Of the twelve organisations who participated in the research, over half (n=7) were funded by the Atlantic Philanthropies, the One Foundation or both. These two philanthropic organisations have provided extensive funding to a range of organisations advocating in the children's and immigration sectors in addition to various social justice programmes. Both foundations have prepared exit strategies, with the One Foundation funding ceasing at the end of 2013 and Atlantic Philanthropies in 2016. All NGOs interviewed engaged in some form of private fundraising, although its extent varied (with a higher emphasis in the children's sector organisations). Public funding had been secured by some organisations (ca. n=6), though in many cases this was linked to service delivery and specific projects and did not cover core running costs. In addition to various social inclusion funding measures, this included funds from the European Refugee Fund, administered through Pobal on behalf of the Irish Government. One organisation was organised almost completely on a voluntary basis and two more operated without either governmental or philanthropic funding, relying almost exclusively on fundraising. Two organisations who participated in the research have since been obliged to close due to lack of funding.<sup>26</sup>

Funding was perceived a constraint for almost every NGO who participated in the research, particularly for those in the immigration sector. Whilst some public funding was available for service delivery and project implementation, this generally excluded asylum seekers other than basic reception supports (e.g. basic literacy/language skills, parent/toddler groups etc.). Public funding was not available for advocacy and as one NGO participant pointed out; they were precluded from using the term *advocacy* under

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<sup>26</sup> The names of the organisations have not been divulged for reasons of confidentiality, but this was confirmed through personal correspondence with the organisations concerned.

their charitable status. This resonates with general criticisms of the civic-state relationship in Ireland and the linking of funding and charitable status to refraining from criticism of state policies (Harvey, 2009a). Other organisations however expressed no difficulties with terms such as advocacy, campaigning etc. and used them in their official documentation.

The goals of the two major philanthropies are often closely matched to that of the organisations advocacy work and include goals such as ‘making children’s rights real’, ‘making immigrants rights real’ (One Foundation, 2012) or ‘improving access to justice and services for migrants’ (Atlantic Philanthropies, 2012). Whilst some organisations found the philanthropy funding process arduous, and alluded to tweaking or changing their work to fit the goals of the funder, one NGO participant also commented on how this process worked well as ‘we were very clear on what we wanted to do and where we wanted to go and that aligned with their thinking so I think we were very fortunate’. Organisations working at a more local level found it very difficult to access funding to work with asylum seekers, and sought funding through local services delivery structures. Some also perceived philanthropic funding as difficult to access and one commented on how ‘Atlantic Philanthropies have to seek you out, approach you, so it didn’t happen’ (NGO participant, immigration sector). Philanthropies were however not viewed as a panacea and participants were aware of the winding down of both philanthropies and the uncertain funding future.

## **5.5 Chapter conclusions**

This chapter has provided a summary of some of the key approaches used by the advocates who participated in the study, focusing on both insider and outsider strategies. A clear picture emerging from this overview of strategies has been the complexity and importance attached to identifying the correct target for advocacy and finding the right opportunity to present the argument. They seek to become policy entrepreneurs and to find the right moment to strategically present their arguments. As discussed in the next two chapters however, the success of such strategies was often relatively limited due to a variety of challenges involved in such pro-asylum advocacy. NGOs stated they acted strategically, thought about future consequences and invested much time and resources in ensuring that they had evidenced their argument. Yet, there is often a reason for particular strategies not having succeeded as they would have liked, and the timing for their idea has proved difficult, particularly given the relatively low level of public support and

awareness surrounding the issue. It also emerged that there were differences between what advocates felt they should do or how advocates should behave in an ideal scenario and the reality of facts they were presented with and the pragmatic choices they often felt required to make given a wide variety of constraints.

Successful advocacy combines good strategies, careful timing and is linked to a range of exogenous and macro-level factors in addition to a focus on the proposal of alternatives rather than simple blocking or resistance to existing policy position. Focusing on alternatives usually works best when collaborative relationships particularly with civil servants are established and processes working dialogue are put in place (Onyx et al., 2010, Keenan and Montague, 2010). In line with other similar studies, much of the advocacy gains appeared to be incremental and difficulties were encountered in achieving breakthrough advocacy (Hodgett and Sweeney, 2009). Challenges included difficult relationships with the Government, the exercise of power to keep particular issues off the agenda (Lukes, 2005) and exclude particular players. This is explored in greater detail in the next two chapters.

As shown in the next chapters, challenges arise also for NGOs for whom the environment for such advocacy was not always favourable and the issues they were raising may have become unpopular or have fallen off the public agenda. The next chapter explores in greater detail how they have raised particular concerns, the ways in which they frame their arguments and the particular dichotomies and challenges that have arisen in their attempts to put their concerns on the public agenda.

## Chapter Six:

### NGOs Adaptation of Strategies and Attempts at Agenda Setting

#### 6.1 Introduction

NGOs have continued to advocate for a period of over twelve years in relation to Direct Provision and its impact in particular on children and families. During this period however, their strategies, approaches and tactics have not remained static, but have evolved to reflect changing circumstances and in some cases frustration with particular strategies not working as effectively as anticipated. This chapter seeks to trace how NGOs have developed, refined or altered their strategies, why they did so and whether this has assisted in the process of putting their concerns on the public agenda. Developments noted included as a move away from advocating directly to civil servants and a renewed emphasis on politicians. NGOs also sought to build more coalitions with each other and tended to be more removed from official networks dealing with the practical and day to day issues of policy implementation.

The chapter also focuses on how they have articulated particular concerns and some of the challenges and dichotomies that have emerged in attempting to raise such concerns. The particular nature of advocacy for asylum seeking families and children in the Direct Provision system is noted, including dominant discourses related to children's rights and welfare or that of more general human rights within an immigration context. Whilst long-term radical advocacy goals may be held by certain organisations or individuals within organisations, much of their day to day advocacy work is incremental in nature and in line with other studies, emphasis is often put on seeking commitments rather than addressing actual implementation (Hodgett and Sweeney, 2009).

The way in which advocates have adapted their strategies is the focus of **Section 6.2**, including a move towards politicians (rather than civil servants) and an emphasis on coalition building. In **Section 6.3** the manner in which advocates have sought to raise their concerns and the particular articulation and framing of their arguments are further explored. This includes an examination of the particular goals of such NGOs, how they differ and the dichotomies that have emerged, including a children vs. an immigration focus and the emphasis on humanitarian vs. legal arguments. The Immigration Protection and Residence Bill was frequently presented as a symbol of hope and legal reform in the

area of immigration and its perception and relevance for NGO advocacy is discussed in **Section 6.4.**

## **6.2 How have advocates adapted their strategies over time?**

### **6.2.1 Overview**

The data demonstrates how advocates find and use a broad range of strategies to attempt to put their issues and concerns on the government agenda. The narrative displayed in many of the interviews demonstrates how advocates tried a particular approach that may not have worked or it may have only worked in particular circumstances. Minor successes were recalled, in addition to frustration and sometimes a sense that no-one was interested in listening. Advocates who were working on the appeal of the Direct Provision system also became aware that it was no longer as topical, that asylum seeker numbers had dropped and therefore no longer perceived as ‘a problem’ by the public and some politicians. In the current economic recession, they felt that levels of sympathy for the conditions of the those who remained was lower and obtaining public support was more challenging as more people grappled with financial difficulties. Such limited successes sometimes led advocates to adapt their strategies and to attempt to find new angles to old problems. Some felt that the window of opportunity for influencing policy in this area was lost given the current recession and the lack of change that happened during the period of economic boom. It was conceded by some that such ‘policy windows’ were closed, but there were potentially new avenues, new windows that were opening that offered some hope.

This section examines some of the ways in which advocates developed, refined and modified their advocacy strategies and how they sought new windows of opportunity. Two principal trends appear to have emerged, namely a gradual shift away from targeting civil servants, with a stronger focus on politicians; and a concerted effort to work in strong and unified coalitions.

### **6.2.2 The move towards politicians**

All respondents were asked about whom their advocacy activities were directed at and were probed in further detail about the extent to which and the ways in which they engaged with civil servants or politicians. Some clear patterns emerged from this data, revealing a gradual shift from individual NGOs concentrating more on civil servants to



building coalitions and jointly targeting politicians. All transcripts were examined in greater depth to reveal patterns in relation to targets of advocacy and how this has changed over time. Of eleven NGOs (twelve individuals) who participated in the interviews, only one indicated that more of their advocacy work was targeted towards civil servants; seven expressed a preference for now concentrating more on politicians and the remaining three did a combination of both. Of those who now concentrated more efforts on targeting politicians, five indicated that this had been a change in direction. These five were also members of the Forum on Direct Provision, a coalition of NGOs working specifically to campaign for the reform and abolition of Direct Provision. The reasons these organisations gave for moving away from civil servants and towards politicians were very similar. This was summarised by one interviewee:

*I. What has brought about the move away from working more with civil servants?*

*R. It was a natural thing to happen. It was like we weren't being taken seriously. There was a sense of frustration with RIA. They didn't want to deal with the issues. It is difficult to negotiate with people who don't want to hear. It was like there were a thousand of people contacting them and you're number 1001 (NGO, immigration sector)*

The majority of respondents who dealt specifically with the RIA recounted difficulties in their relationship with them and in being taken seriously. Two NGO participants recalled how NGOs used to work with the RIA more in the past, three spoke about how they had been involved in interagency group meetings with them in the past, but in many areas (with some exceptions), the NGOs were no longer invited to attend.<sup>27</sup> In contrast to advocates who dealt more with the Department of Children or the HSE, the relationship with the RIA and the Department of Justice in general appeared more difficult and the level of co-operation with NGOs was lower. This was also confirmed through the interviews with policy makers and observers.

One NGO described the sense of alienation from the RIA and the difficulties in working with them. This also indicates a sense of different priorities and values in terms of how asylum seekers may be viewed. This sense of difference of perception was echoed throughout the interview

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<sup>27</sup> Further information on the Interagency Group meetings and the process whereby NGOs began to feel excluded is contained in Section 7.2 as one of the key episodes.

*Essentially it's been a difficult relationship in that they neither seek nor welcome the engagement of NGOs – the officials. I think they would be quite hostile to NGOs and I get the feeling that we're causing trouble, we don't really know what we're at, we're naive and believing of people who would pull a fast one or whatever and we're very hostile to management and owners of hostels. So I think they wouldn't give us a great deal of credibility (NGO, immigration sector)*

This quotation also demonstrates emerging different discourses and potential conflicting belief systems between pro-asylum NGOs and some Department of Justice officials. It indicates a sense of how those challenging a 'state of exception' (Hintjens et al., 2011) may be viewed with suspicion and worldviews can collide. Within an Advocacy Coalition Framework model (Sabatier, 1988), these could be seen as polarised coalitions with very differing beliefs or perceived differing beliefs on a particular policy question. Some of this was corroborated both in interviews with policy makers and official documentation. Politicians on the other hand were perceived as less set in their views, more malleable and eager to please their constituents.

One NGO participant reflected during the course of the interview on why they no longer concentrated their efforts on targeting the RIA directly. She explained initially that it made more sense to concentrate on targeting TDs as opposed to civil servants, particularly within the Justice arena, and whilst some NGOs still worked with officials, it may have been from the Department of Health or other departments, but not the Department of Justice. Later in the interview however, she recalled how at one stage they had almost daily contact with the RIA and how many of them were 'good people' and how they often contacted particular individuals who they perceived to be the 'nice face of RIA'. This participant was also of the view that civil servants held most sway over policy making and that ministers were much more likely to come and go. She continued that:

*They (civil servants) implement the strategies. And they do...even if the Minister comes along and it's a strong minister, they still hold the balance of power. If anything yes, they are probably the people to lobby and I think any effective lobbying strategy has to include them, especially when it comes to legislation or policy to practice issues, which is an important thing.*

This appeared to be somewhat in contradiction to earlier statements about concentrating more on politicians and demonstrates a divergence in what this respondent felt they should do as opposed to what they actually do. As members of the Forum on Direct Provision and other coalitions, there could also be a sense of a collective move in a particular direction that may not always exactly fit the personal views of the participants.

The same respondent also recalled how they used to work with the RIA through interagency meetings, which they no longer attended. Whilst these had not been a panacea, she recalled that:

*They were effective in that people were able to say things to them but I think there was quickly a realisation that whatever you say, they are still going to do as they have always done and nothing much will change. One advantage though was that at least you got some personal rapport with some of them within RIA, which would mean that when you then needed to pick up the phone and ask for a favour, say someone with 3 children is being moved from Ballyhaunis to Cork and they don't want to and they have better supports, sometimes they will listen.*

Despite approaching the issue several times during the course of this interview, it never became fully apparent why this individual no longer focused on working directly with the RIA; and whether this decision had been taken at a personal, organisational level or whether it was linked to the general direction of various coalitions, which paid more attention to politicians. Towards the end of the interview however, she remarked that it had made her revisit this area and look at why they did not work with senior civil servants. She reflected that ‘... just for me personally thinking about it, even knowing the type of people you have to deal with. There’s an area NGOs should maybe try to do more of’. This reference to ‘knowing the type of people you have to deal with’ appears to refer to the different types of people and engagement experienced in previous encounters with the RIA, which appeared to be both positive and negative, but perhaps the negative ones had made a more lasting impression.

Some external observers and other Government participants also understood this viewpoint of not co-operating directly with the Department of Justice and its various agencies and pointed to particular cultural mindsets within the Department of Justice and a lack of sympathy. One policy maker described it as possibly linked to stemming from the criminal justice system administered by the Department and a sense of suspicion. Another observer described the situation as:

*But there has been a belief in the Department of Justice right from the off, a very cynical belief that everybody who lands on our shores here shouldn't be here and they're just trying to fool people that they're actually economic migrants (participant, observer)*

One civil/public servant indicated that the culture within the department operated against finding new and innovative solutions.

*It's not an open department whereby solutions are actually thrown around and considered or anything like that. It's very much an issue of containment and national security and even if 99.9% of asylum seekers were in fact economic migrants a solution there would be to change the immigration system so that people would actually try and use that.*

This sense of alienation from working with the Department of Justice, whilst evident in many of the transcripts was not the only view offered and one or two NGOs and some observers or other policy makers sympathised with the difficult position that officials working in the RIA were in. For one NGO in particular, working on their relationship with the RIA was something they valued and they continued to co-operate with them where possible. This was also done through positive engagement on other projects where the RIA may have also benefited from their expertise and the process was therefore more reciprocal.

Three NGOs also differentiated between different types of advocacy and how they decided on the source, depending on the nature of the issue. Generally this was broken into dealing with officials for individual cases and sorting practical issues and addressing issues of wider policy changes towards politicians. One participant felt this approach also had the added value of keeping the lines of communication open with the RIA and being able to compile a list of broader issues that could then be addressed to the politicians. Two observers commented strongly on the need to target both politicians and civil servants and were slightly critical of NGOs who may have bypassed civil servants. The reasons given for this were explained by one observer as:

*Because civil servants will do what they're told, but ministers get their information predominantly from civil servants, if you don't also go to them and say actually there's another side to this story. You have to create a channel to elected representatives but you also have to provide them with evidence based information as to what's going on, recommendations, they have to be solutions focused. Then you also have to work with the civil servants because they're the people, if a minister or anybody says we need to change it, they're going to push it back on the civil servants to actually come up with the solution and have to deal with the situation thereafter. So if you isolate the civil servants and just go the political route, the civil servants will be completely p..... off that were bypassed. And if you just try to deal with the civil servants themselves they'll say what you're being told is we just do what we're told. So you have to do both.*

A similar view was held by another observer who explained how ministers may rely more on civil servants and often follow their advice. This view was also reiterated

by civil servants who explained how they did not make policy *per se*, but did provide advice to ministers.<sup>28</sup>

*I don't think it's good practice. I think partly because politicians might give you a better hearing but they won't necessarily do anything about it. And secondly politicians, particularly ministers are being briefed all the time by the civil servants. And politicians may overrule or go against the advice or wishes of civil servants, but they will choose when they do it, if it's something very close to their heart. But most of the time they'll be happy to go along with the advice.*

*I. Do you think civil servants still hold a lot of sway?*

*R. Absolutely and they're a permanent government in the sense that you may persuade the current government minister, but he or she might be reshuffled tomorrow or lose their seat at the next election or go out of office. No matter how difficult it is, I think you have to maintain some channel of communication (participant, observer).*

These quotes demonstrate the intricacy of the policy-making process, the linkages between the ministers and the civil servants who implement and feed into decisions and how they are linked in a cyclical process. The role of the various actors in the policy-making process and the points at which NGOs can seek to influence it are discussed in Chapter Seven.

### **6.2.3 Emphasis on building coalitions**

Building coalitions and working together in groups of like-minded NGOs emerged as an integral part of NGO advocacy work in this field. Rationalisation within the sector and merging of certain organisations also meant that less resources were available in some cases for advocacy work, compounded by legal difficulties relating to their charitable status and conditions linked to funding (Harvey, 2009a). Framing such coalitions in terms of the policy network literature may provide some useful insights, although it would be difficult to classify them as policy communities (Marsh and Smith, 2000) in a true sense as such coalitions are not policy decision-making structures, rather they campaign for policy change and do not necessarily have access to the networks where policy-making in this area occurs. They could however be termed as policy communities, by applying the broader understanding Kingdon (1995) affords them of those who may be inside or outside government, but 'have in common their concern with one area of policy problems'. Inherent within his understanding however is a sense that such actors (insiders

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<sup>28</sup> A more in-depth discussion on the policy-making process is contained in Chapter 6

and outsiders) are involved together in the policy process and that such communities are defined by their sectoral interests such as health or transportation. Whilst some coalitions such as the Anti-human Trafficking Working Group are made up of both NGO and state actors, others such as the Forum on Direct Provision are NGO led, with UNHCR attending in an observer capacity. In this case, such coalitions are more akin to outside interest groups, which may be centred on both positive promotion of new courses of government action and negative campaigning to block changes in public policy (*ibid*, p49). In the case of the Forum on Direct Provision, the unifying aim of the coalition is to abolish or completely reform the system of Direct Provision (attempts to negatively block public policy); and is accompanied by a series of shorter term sub-objectives relating to improving the current system, with some references to positive proposals of new courses of government action.

It may also be useful to examine such networks in terms of ‘advocacy coalitions’ with similar belief systems as outlined in Sabatier’ and Jenkin Smith’s Advocacy Coalition Framework (1993). The emphasis on unifying belief systems and the notion of policy sub-systems unifying in favour or against particular policy goals also provides a useful framework to analyse the role of the Forum on Direct Provision. Such a coalition, comprising fifteen members at both regional and national levels is disparate and fragmented in the sense that the organisations are geographically dispersed and each organisation operates within a separate framework or with a separate focus. On the other hand, the coalition presents a unified voice in terms of their particular policy demands. Unlike processes such as social partnership process in Ireland where the Advocacy Coalition Framework was tested (Adshead, 2011), such a coalition does not exist as a particular pillar in government decision making circles. It is closer to an outside interest group and is outside the formal policy making arena.

As discussed in the next chapter, the processes and actors of policy making in this area are complex, disparate and at times difficult to identify. Kingdon maintains that ‘it is still difficult to assign responsibility for the emergence of agenda items solely to interest groups’ (1995, p49). The NGO coalitions whilst not having direct decision making power themselves in relation to policy may have closer resemblances to policy networks in the sense that they are tight-knit communities with clear policy goals and a relative balance of power between individuals (Marsh and Rhodes, 1992).

The analysis of the data on how NGOs approached advocacy to reform Direct Provision revealed a number of patterns, some of which were discussed in the previous section. These included moves towards approaching politicians, moving away from the former interagency group structures and agreement by many that ending Direct Provision is the ultimate goal of their advocacy work. NGOs do not operate within a vacuum and the building of coalitions among them formed an important part of most of their advocacy strategies. It could also be concluded that particular patterns evidenced were also partly due to the working in coalitions and forming agreements on the best approaches. The Forum on Direct Provision is the most noteworthy in that regard and can be seen to have considerable influence on the approaches to advocacy currently being undertaken. Or conversely, there may be a case for arguing that some individual NGOs were already beginning to focus their efforts more on targeting politicians and succeeded in convincing other members of this and other coalitions that it was more effective.

The Forum on Direct Provision is a network of organisations, officially formed in 2010. It originated as a sub-group of (then) Integrating Ireland on Direct Provision. The statement below from one of the member organisations websites summarises the focus of the coalition and its *raison d'être* explains how it moved from individual complaints and requests to direct campaigning in a coalition.

*The members of the NGO Forum on Direct Provision believe that the system of so-called 'Direct Provision' has an unconscionable human cost. We believe that long-term institutionalisation is harmful to asylum seekers, to their children, and to Irish society. The Forum is seeking the introduction of an alternative to the system known as 'Direct Provision' during the lifetime of the new coalition government.*

*... After many years, the members concluded that the requests and complaints of the residents, even when supported by advocates from migrant NGOs, the medical profession and social workers, etc, were falling on deaf ears. We concluded that the only option open to us as advocates was to campaign for change. (NASC, 2012).*

Seven of the organisations interviewed were members of the Forum on Direct Provision and it therefore represents the coalition to which the highest number of research participants belonged to. Its focus is also of particular relevance to the study as it is a space in which the reception conditions of families and children are debated and advocates seek crucial policy change. The forum is made up entirely of NGO members and unlike some of the interagency group structures; it does not include any state actors.

UNHCR (an international intra-governmental organisation) attend the meetings in an observer capacity. All members who were interviewed were asked about their involvement in the coalition and whilst some indicated more than others that it played a more important role in their advocacy work, there was a general consensus among those interviewed that the forum was an effective way of working together and that there was broad agreement on the core issues amongst the members. Strategies were worked at the coalition level and these seemed to involve particular tactics, outlined below.

In 2010 some members the Forum worked towards the preparation of the Joint Committee on Health and Children meeting at which RIA and the HSE were invited by the committee to provide testimonies in relation to the conditions in certain hostels and to answer questions (largely on foot of requests by NGOs) in relation to an independent complaints procedure. This committee meeting was mentioned frequently by both the NGOs and some policy makers, and was an important milestone in the sense of NGOs perception of success in relation to putting their issues on the government agenda.<sup>29</sup> Following on from this meeting, members of the Forum also identified the joint Oireachtas Committee on Justice, Defence and Equality as the policy forum they wanted to influence, particularly in the context of their likely discussions on the revised Immigration, Protection and Residence (IRP) Bill and an overview of the immigration system, possibly in late 2012. It was also recognised that many TDs and senators were new and that there was a need to inform and educate them about the system of Direct Provision and asylum issues in general. One approach then decided on by the Forum in 2011 was for each member to tackle a particular person on the justice committee, as explained by one of the Forum members:

*A lot of the NGOs have taken one person. So, I'm going to try to set up a meeting with x (name of politician) some time and another NGO will meet with someone else, the idea being that when they do reconvene they'll all have met with at least one of us and we'll have a shared agenda of the things we think are important so that when they do reconvene to chat amongst themselves, they will be aware of who we are and what is going on (NGO, immigration Sector).*

When then probed further about why the Forum had decided on this particular route of tackling politicians individually (as opposed to collectively), most NGOs had the sense that it was at least worth trying and possibly in the absence of an imminent

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<sup>29</sup> This committee meeting is discussed in Chapter 6 as a particular episode that demonstrates how advocates intersected with policy makers.



opportunity to address the Justice Committee, it was an opportunity to brief the politicians on who the Forum was and what their concerns were. The excerpt from the transcript below shows how energy and resources were invested in identifying and targeting the newly elected politicians and it was possibly an opportunity to influence those who were new and may not yet have strong views.

*I. Do you think that works as a strategy to take them individually?*

*R. I think that's the best idea anyone has come up with. I think you need to pre-empt and meet people beforehand because in the change in the political landscape in the last year, there's a lot of new faces ...we might have spent a lot of time in the past trying to lobby politicians who may not be in power or in place any more so I think we have to, not start from square one, but we need to start again and go who is in power and what is going to happen over the next few years. Who are we going to meet with? Who would we bring our concerns to. I think that's kind of where we are at (NGO, immigration sector).*

The Forum also held a Dáil briefing in July 2011 at which they invited all TDs and senators to a briefing where they did an all-day open session on their primary concerns and goals. The NGOs who were present at it generally felt positive about it and pleased to have been given the opportunity. Whilst it may not have led to any immediate policy changes, there was an overall sense that they had succeeded in putting their concerns on record and potentially putting them on the agenda for future policy deliberations (specifically the joint Justice Committee). Twenty TDs and senators attended and one NGO research participant explained that 'The right ones came... one came who is the current chair on the committee on justice, who would have oversight over Direct Provision and RIA and Department of Justice and he was very good.' (NGO, immigration sector). A clear goal of the Forum was also to have another opportunity to address the Justice Committee and this goal was pursued strategically. One NGO respondent explained how this would be useful, but not necessarily a panacea to their demands.

*I. So, are you hoping for an invitation?*

*R. We would like it. Then especially because of the newer people in there and the change in dynamics. But the committee meeting then, you never usually get the Minister in at it. So you might get the officials in who will respond to you afterwards and that response then is always the difficult part about a committee meeting but at least it's on the record and if you can get people to state things on the record in response to what you've said then that's always helpful because you can come back to them on it.*

This quote also demonstrates how advocates saw value in putting their issues ‘on the record’ and having them minuted at meetings and officially recorded provided ammunition for future advocacy work. This links to the notion of seeking incremental change as opposed to ‘breakthrough advocacy’ (Hodgett and Sweeney, 2009) and was an important element in seeking to put their issues on the public agenda, regardless of their control of the issue thereafter.

It was also pointed out by one participant that the Labour party had indicated pre-election that they intended to abolish Direct Provision and it provided an ‘opportunity to see if they wanted to live up to that promise’. Another participant also explained how each NGO was able to contact their local TDs or senators and how Ireland’s localised system of politics presented an opportunity to tap into local allegiances and how politicians were often keen to lend support to organisations within their own constituencies. Another respondent also commented on how politicians were affected by the human stories of their constituents.

*It’s funny about when you go to some of the politicians and who actually has a real sense of it because I suppose we always think along party lines, you know, they’re going to tow the party line or they have a quite strict immigration policy so they’re not going to be moved by this at all but because people have centres in their locality and they have people going in to them they see the human side of it they’ll actually advocate for them and if you see the amount of PQs that there are on ‘where is this person’s asylum claim at the moment?’ I think that does show a sense of politicians certainly being affected by it (NGO, immigration sector).*

Interviewees were also asked about why they felt such a coalition was effective. The argument of there being ‘strength in numbers’ was the most common response, echoed in most interviews. As one interviewee stated:

*So they’re all the main groups (the NGOs) and there has to be strength in numbers. From a politician’s point of view, you could only hope that if they get one sheet of A4 summary and signed by all of the relevant people, that has to have some weight to it.*

Other reasons given included increased efficiency and less work for each organisation and a pooling of strengths and resources, whereby each organisation may have something different to contribute. Examples included one organisation providing organisation and administrative support, another carrying out research and another providing training. As mentioned above, regional organisations in

particular were viewed as being in a better position to specifically target their local TDs.

*So as a group we decided independent complaints was our key ask and then an overall review and eradication of Direct Provision was our long term goal, that's what we decided as the forum. Those are still the two priorities, review and eradication but our short term goal is the independent complaints procedure (NGO, immigration sector).*

Members of the coalition were also probed in relation to the particular advocacy goals of their own organisation and those of the Forum. Whilst each organisation had a particular focus or strength, there appeared to be a general consensus on core issues within the Forum and pragmatism around working for change, as explained by one participant.

*I think it's relatively easy in that there's no dispute as to what the goal is. You can often meet with NGOs who work in the area and everyone has a slightly different slant on what you want, but it's universal, or as universal as it can be, but nobody particularly like Direct Provision, people want it abolished, or at least reformed, so the agenda for the forum is quite simple, but there's no dispute over it, so it's not like we have 10 people sitting around a table arguing with each other. We all agree, so let's just move and do something about it (NGO, immigration sector).*

In terms of the particular goals of the Forum, they appeared relatively straightforward and were divided between an ultimate long term goal (eradication of Direct Provision) and short term goals of putting an independent complaints procedure in place and for the Ombudsman's guidelines to be extended to the Department of Justice. These goals can be classified as both negative blocking of existing policies and policy proposals (e.g. eradication of Direct Provision) and some positive promotion of alternatives (improved complaints procedures). In relation to the independent complaints procedure, the Forum also developed a system of tracking complaints whereby each organisation compiled and submitted statistics of complaints in hostels and these could then be compared against the official Department of Justice reports.

*We can shadow it by saying well actually this is the amount of complaints that we've received from people who are too afraid to use the complaints procedure. So that is another advantage to having everyone around the table and individual expertise that when we have problems we sit around and people have different areas of interest and expertise.*

Whilst organisations involved in the Forum were generally very positive about its value, a minority also expressed an opinion that it could possibly go further and put more emphasis on the lobbying work, which was possibly difficult to sustain. Some of the

regional organisations also found it difficult to participate in the meetings as they were mostly held in Dublin. Attempts were made to hold them elsewhere, but this had proved difficult. One member however felt that being able to participate through E-mails and on-line communication was also important, but it did not equate to complete participation. Some organisations funding streams also precluded them from participating fully as travel for lobbying work was not a legitimate activity under certain streams of EU and government funding.

#### **6.2.4 Conclusions**

The NGOs in this sector are working in a particularly challenging field and in many cases fighting a cause that may not have large-scale public support or even public awareness of the issues. The NGOs interviewed generally expressed a high degree of frustration in their attempt at co-operative working with civil servants in the Department of Justice and those working with other government departments generally expressed a higher degree of satisfaction. Since 2010, possibly in line with the formation of the Forum on Direct Provision, greater focus has been placed on lobbying politicians directly and in some cases by-passing the officials. The sector is relatively small and contact between organisations both formally and informally is frequent. Whilst most organisations in the immigration sector (and those in the children's sector working specifically on asylum issues) appear to have moved away from advocating directly towards officials, it is not possible to neatly distinguish whether this happened directly as a result of the collective approach taken by the Forum on Direct Provision or whether organisations arrived at their own separate conclusions and thus brought this reasoning to the table of the Forum.

Nonetheless, it would appear that the Forum on Direct Provision is a strong actor in the field and resembles a policy network (Marsh and Smith, 2000), albeit with limited policy making powers or influence. It also has attributes that make it similar to an advocacy coalition in the ACF literature (Sabatier and Jenkins-Smith, 1993). A few members expressed frustration with certain elements of its operation and felt that it could be more active and effective. The move away from officials and towards politicians also entails difficulties, as recalled by one observer in terms of politicians coming and going, whilst officials may represent the permanent face of government. The general election in 2011 was noteworthy in that for the first time in fourteen years, Fianna Fáil was no longer in power and 27% of sitting TDs lost their seats or did not contest the election (Houses of the Oireachtas, 2012). It also represented the highest number of first time politicians in

recent history, where 76 of those elected were elected to the Dáil for the first time. The result has been that many politicians are new, the balance of power has shifted between parties and Oireachtas Committees are comprised of a very different membership. Much of the recent work of the Forum has therefore concentrated on getting to know politicians, informing them of their work and in a sense attempting to identify their likely supporters and opponents. Some respondents also expressed surprise at how supporters were sometimes found in unlikely places and how geographical location and closeness to their constituency sometimes mattered more than party political lines.

The next section examines the particular concerns of advocates and the manner in which they have attempted to articulate them.

### **6.3 Key concerns and their articulation**

#### **6.3.1 Introduction**

Whilst it is not necessary to provide more detailed information on the in-depth concerns of advocates (as summarised in Chapter Three and several NGO submissions and reports), it is nevertheless useful to examine how they frame their arguments and then in turn to look at how they believe this has or has not translated into setting any government policy agendas. The agency of the advocates in this process emerged as important. Advocacy that has been termed ‘pro-asylum’ can be challenging and operates in an environment where public opinion may not be as supportive as other forms of advocacy such as the area of disability, older people etc (Bhabha, 2002, Hintjens et al., 2011). International human rights law that protects asylum seekers is not very comprehensive and general instruments relating to socio-economic and civil and political rights may be invoked, although the legal status of asylum seekers may be deliberately unclear (Smyth, 2010a). Domestic legislation and policies may also contain inherent contradictions, whereby exclusionary practices and laws operate towards asylum seekers on one hand (Lentin, 2007), yet many social policy pledges do not explicitly exclude (nor include) asylum seekers and asylum seeking children.

In further addressing the sub-question of what NGOs do to advocate, it is also necessary to explore the articulation of their concerns, including the manner in which the argument is framed and how NGOs perceived this affected the outcomes. NGOs were divided in their opinions of what strategies were most effective, and the overall goals differed

somewhat between organisations. A number of dichotomies emerged from the interview data, such as the focus on children's rights in advocacy, legal vs. humanitarian approaches and the emphasis placed on the Immigration, Residence and Protection (IRP) Bill as a symbol of potential reform.

### **6.3.2 *Policies NGOs seek to change or block and how they articulate them***

All organisations however were chosen for the study on the basis that they were involved in some form of advocacy for asylum seeking children and families, with many advocating directly in relation to reception conditions. The concerns highlighted here do not represent the key concerns of the organisations overall, which would be much broader. Instead they focus specifically on their responses in relation to children and families in Direct Provision and the overall reform of the Direct Provision system (many respondents in the immigration sector focused generally on the reform of Direct Provision and not did not necessarily segregate concerns affecting families and children *per se*).

The overall eradication or radical reform of the system of Direct Provision was a goal that all except one respondent referred to or implied strongly. The vast majority were therefore attempting to put their concerns in relation to the existence and operation of the policy on Direct Provision on the public agenda. The one respondent who stated clearly that the eradication of Direct Provision did not form a part of their goals expressed the view that they could not think of suitable alternatives and many asylum seekers were happy overall with the situation of having their board and accommodation provided for. This however was a minority view and the predominant position of advocates was that Direct Provision as it currently operated was not working; people spent too long in the system; it impedes integration and was having a detrimental effect on mental health and the well-being and welfare of children and families. A wide range of NGO submissions, press releases and other documentation were consulted and frequent phrases were used such as: 'Government called on to review Direct Provision system' (FLAC, 2011) or 'proposal identifying an alternative to the Direct Provision system' (Doras Luimni, 2011). Whilst many of the NGO submissions concentrated on the various negative aspects of Direct Provision and in some cases examined particular human rights arguments, most started from the premise that the system overall was operating in an inhumane manner, particularly when used for longer than six months. This view was also reflected to some extent by civil servants (outside the Department of Justice) and some politicians, many of whom agreed that a maximum timeframe of six months may be more appropriate.

Ways in which this particular overarching and long-term goal was articulated was through a combination of means including the following:

- Submissions to reviews carried out by the RIA on the Direct Provision Centres Rules and Procedures in 2007;
- Publication of fact sheets, research, reports, press releases etc. on Direct Provision and its impacts, including its impact on children;
- Submissions to human rights monitoring processes (e.g. UNCRC, UPR, UN Expert on Human Rights and Extreme Poverty etc.);
- Work of the Forum on Direct Provision (see above);
- Meetings with officials in RIA either on an *ad hoc* basis or through interagency processes; and
- Meetings with TDs, Senators and Ministers both individually and through collective fora
- Public information and media campaigns.

Within this overarching framework of seeking radical reform, shorter term goals were also prioritised, focusing primarily on issues such as the independent complaints mechanism, the transfer system, the length of time spent in Direct Provision (expected to be dealt with in the proposed IRP Bill). As explained by one NGO interviewee:

*But fundamentally we want the system to be changed, but in the interim we want to have these basic changes like the transfer system, the complaints mechanism. So at least when people are waiting for the big change, when Alan Shatter is up to his commitments, people's lives are improved drastically in the short-term (NGO, immigration sector).*

Respondents were asked about the change in government and whether pre-election promises of one of the government parties in relation to changing Direct Provision had meant anything. Whilst most were aware of such pledges, they were not necessarily believed and as one respondent pointed out:

*Well they've changed that. Even then we were quite pragmatic. Any of us who have been long enough in the sector knew that was a long way off especially in the current climate. .. They were saying they wanted to get rid of Direct Provision, but they didn't say what the alternative was, what they were going to bring in. So even then you knew if they were really serious about it, they would have been saying, this is what we are going to do if we remove it. But we're using it, definitely, we're using it for our lobbying and advocacy and we have it in writing (NGO, children's sector).*

There was a general consensus amongst respondents that despite any pre-election pledges made, the current economic climate compounded by the fact that there was never significant public support or willpower to reform the system, made it unlikely that their demands would be taken seriously. Whilst many held it still as a hope and utilised the international human rights monitoring processes to lend support to their argument, a few advocates were somewhat fatalistic in their belief that ‘breakthrough advocacy’ or radical reform was not possible. In its place, they emphasised small incremental changes and believed that each was a step in the right direction. Some NGOs also pointed to the ‘hierarchies’ within the concerns that they raise and how issues manifest themselves differently depending on the particular region or hostel. Some of the organisations outside Dublin sometimes referred to how much media attention had focused on the problems of the hostels close to Dublin such as Mosney<sup>30</sup>, but that problems in the hostels in their areas may be significantly worse. As articulated by one advocate:

*And Mosney being the biggest gets all the attention, whereas everyone in Direct Provision outside of Mosney wants to live in Mosney. They have independence of a degree, so for us in x (name of town) looking at those in Mosney giving out, you think you don’t want to be here because it’s so much worse here. And that creates a hierarchy. Whilst the people in Mosney are upset, the situation is worsening for those in the bad situations. Whilst you have a family with a room for yourself, in x hostel you don’t have a room for yourself, you have to share with 4 people. So there are hierarchies (NGO, immigration sector).*

The regional NGOs generally attempted to foster linkages with their local TDs and senators and raise the specific issues existing in their constituencies (e.g. unsuitability of some hostels for families, unfair transfers, hostel management not dealing with complaints of residents).

### ***6.3.3 Articulation of concerns around the Direct Provision system and its effects on children and families***

All of the NGO interviewees and nine of the group of policy maker interviewees agreed at some level that the system of Direct Provision had a detrimental effect on children and families. These concerns were multi-faceted and often reflected the particular perspectives of the organisation. They included concerns about mental health, boredom, lack of autonomy, inability to cook meals, overcrowding, difficulties of providing positive role models, inappropriate transfers and effect on schooling, transport

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<sup>30</sup> Name of large Direct Provision centre in the East of Ireland.



difficulties, limited integration possibilities, poverty etc. Whilst it is not necessary to repeat the concerns here, the manner in which they were articulated and the particular emphasis advocates put on certain aspects are noteworthy. These include the following.

Firstly, five NGOs made reference to the Ryan report on institutional child abuse (Commission to Inquire into Child Abuse, 2009) and its implementation plan and drew some similarities to the situation currently being experienced by asylum seeking children and potential future reports that may draw conclusions on the effects of such institutionalisation of children. Whilst all recognised that the situations were different and it was not comparable with child abuse in the same sense, similarities were drawn with the responsibility of the State to protect children and not to support institutions that may cause them harm. This was articulated in phrases such as:

*I don't know, like the Ryan Report, I wonder in the future will there be a report out. There will be a generation out there who don't know what it's like sitting down as a family.*

Another respondent who recognised some similarities also issued a note of caution about adopting such an approach.

*Saying we will be here in 20 years time with a commission of enquiry, compensation and all of that if you don't take on board what's being said to you. You have to be a bit careful about that because depending where you say it, it can be seen as being quite inflammatory*

One observer also commented how the various reports and commissions of enquiry had created an opportunity to raise awareness around the protection of children, but how it had not yet fully extended to immigrant children and the window of opportunity might not yet have been created.

Secondly, another interesting point raised by some NGOs was in relation to the poor integration of asylum seekers and how in some cases this militated against effective advocacy on their behalf and higher levels public support. One NGO explained how immigrants living in the community as opposed to asylum seekers who led relatively isolated lives, often had greater levels of public support and

*They (asylum seekers) couldn't have children over to play all that kind of stuff so all that lack of integration meant they were the other and remained the other...The majority of the community doesn't know the conditions that their fellow community citizens are living in and they don't think of them as fellow*

*community citizens so they have no awareness of it and they have no interest in it and they don't see them as part of their community* (NGO, children's sector).

This was also reflected by other NGOs who expressed a difficulty with winning public support and political sympathy in relation to reception conditions and often found that it became more emotional and people were more likely to have sympathy when a family was likely to be deported. This was especially likely if the family was living in the community or had established more ties within the community.

Thirdly, some of the organisations working within the children's sector emphasised the importance of framing the argument as a children's protection and welfare issue and how this was more likely to win support than concentrating mainly on the immigration or human rights dimension. One organisation commented how advising people to use a child protection route can be more successful as 'there is a mechanism there to address it, there are people responsible' (NGO, children's sector). This was reiterated by another children's sector organisation who stated:

*If reports or stories come out about conditions are below par or children staying in hostels or any of those things we would always try to put it into the context of this is a child protection issue. And it's not an immigrant or foreign child issue, but a child protection issue.*

#### **6.3.4 Emerging dichotomies**

As discussed above, one of the important dichotomies or differences emerging in how arguments are presented in relation to children and families in Direct Provision has been the framing of the argument in terms of a children's or an immigration issue. This does not necessarily translate as children's sector organisations framing it from a child's rights or protection point of view and the immigration organisations concentrating more on other arguments. Whilst there was obviously a stronger emphasis and knowledge of child rights and welfare within the children's sector, many organisations within the immigration sector also saw the value in this approach and used both more general human rights and child protection frameworks in their arguments. This was also reflected on by NGOs, observers and some policy makers in relation to the formulation and implementation of policy and some felt that government policy did not necessarily treat all children equally and being seen as a 'child first and foremost' was not always the dominant paradigm.

One NGO worker expressed upset at how she felt different children were classed, and how this became very pointed during the referendum on citizenship. She described her shock at how during the organisation of their campaign against the referendum, how she realised that different children were treated, depending on the status of their parents. Her possibly idealistic assumption that the National Children's Strategy applied equally to all children regardless of status was sharply rebutted by one Government official, as shown in the excerpt below:

*R: I suppose one of the things I have been disturbed by over the last few years has been the creation of different classes of children in the country.*

*I: Do you think they're viewed primarily by their immigration status or as children first and foremost?*

*R. No, they're absolutely not, because when you ask about ringing government departments, around the citizenship referendum, in trying to put our own position together, ringing up to ask about the National Children's Strategy and the contradictions implied in Direct Provision and in the referendum that would violate commitments laid out clearly in the NCS. I'll see if I can remember the exact quote 'it doesn't cover those children'*

*I. And this was from a Government official?*

*R. Yes, I rang the National Children's Office and they said we don't cover those children. That for me has been one of the most disturbing aspects. It's disturbing enough for adults, but the way in which in some cases citizens here – the very explicit efforts with that referendum to go back to a situation that Ireland fought really hard to overcome where the status of your parents would dictate your status in life. You could literally be a second class citizen if your parents were married or not. I think every family in the country was touched by that, one way or another, and that was quite a battle to remove that and that stigma. In terms of campaigning on it and doing the canvassing, when the conversation went that way I found people really softened up to the argument and started to see a bigger picture of children's rights in Ireland, But the presentation for the argument in the mainstream was so ugly and blatantly ugly (NGO, immigration sector).*

In this excerpt, the respondent also makes comparisons with the abolition of the concept of illegitimacy of children born outside marriage through the Status of the Children Act, 1987. This was found to be a useful tactic in appealing to the public to see a broader picture. Whilst she acknowledged that some people became more sympathetic on such grounds, it was also admitted that the mainstream argument was 'blatantly ugly', demonstrating the difficulties pro-asylum and refugee advocates experience when trying to bring their arguments to a wider audience.

Whilst this study is not focusing on the previous referendum on citizenship, some elements brought into that debate perhaps offer a glimpse of public opinion, official policy and difficulties NGOs may have in convincing a broader audience that children's rights apply to all children and not just certain classes of children. This also illustrates the woolly legal status of asylum seeking and other immigrant children and the overall policy goals of protecting and promoting the well-being of all children. It would appear also from analysis of policy documents and interviews with a range of policy makers, that the precise target groups of child policy and international commitments to promote children's rights is not always clear. This has also been reflected in the debate on the constitutional referendum on children's rights and the balancing of the wording on the 'best interests of the child' principle and its application in immigration and other matters.

Policy makers and observers also commented on the dichotomy of viewing children as children first and foremost or by virtue of their immigration status. Whilst many recognised the ideal situation of human rights applying to all, it was also acknowledged that human rights were not equal and hierarchies exist. One politician who had actively campaigned against the system of Direct Provision and argued that it was inhumane stated in response to the question of whether the state granted different rights to children depending on their immigration status:

*I think they would...well you see there would be different rights, I suppose the State would have to say that it doesn't treat human rights differently between any children because human rights are human rights but it would probably differentiate between rights of citizen children and non-citizen children.*

This was a recognition of the somewhat idealistic theory of human rights as belonging unequivocally to all by virtue of their humanity; and the reality of states, which differentiate between categories of people. The same politician who belonged to one of the parties currently in Government however, was adamant in calling for reform of the system and referred to historical instances of abuse within institutions:

*One thing I did say and there was a rather startling report about it, in every example of congregated settings that has happened in Ireland over the last couple of hundred years be it mental institutions or prisons or secondary schools or whatever it was some abuse has crept into it in some way or another and the Rape Crisis Centre a couple of years ago warned about women in the centres turning to prostitution. Or even increased instances of rape and I would feel that those may not simply confined to adult women.*

There was however very mixed opinion among other policy makers (civil servants and politicians) in relation to firstly whether the system of Direct Provision could be construed as being in the best interests of the child, and secondly, whether children in the system had the same range of rights and entitlements as other children. A respondent from the RIA was adamant that child protection was paramount and that possibly there was less risk of abuse than in the community, where it could be more hidden.

*We have adapted the Children First guidelines for RIA – that's been fully trained, fully rolled out. Every centre has a child protection officer. Every child protection case is fully recorded and acted on and it would be a really serious matter if it wasn't. We have child protection databases which are restricted. We have very close liaison with the HSE... social workers and so on. Nothing goes beneath the radar in relation to child protection. In terms of straight-forward risks to children, as there would be to an Irish child that is absolutely paramount (RIA representative).*

When this respondent however was quizzed later on the interplay of children's rights through the (then) proposed constitutional referendum and the Direct Provision system, she linked the question of children's rights to particular decisions or actions of the parents (i.e. by becoming asylum seekers in Ireland).

*I suppose there's a question mark on how that would affect the Direct Provision system. There are countervailing arguments that a child is - that the actions of a parent are as much a feature in a decision as the best interests of the child. So if the parents act in a particular way and cause a situation to develop, whether the child of his or her own volition can claim that the consequent action is wrong, that's an interesting legal point.*

Such an argument however could be contrary to the principle of children's rights, in which the best interests of the child is paramount (Article 3, UNCRC) and children are independent rights holders (Kennan and Keenaghan, 2012). Another (Government party) politician who also displayed some sympathy for asylum seekers and sought some immigration reform expressed some difficulty with viewing Direct Provision itself as a violation of the best interests principle from a legal perspective as opposed to issues such as deportation and family reunification but concluded: 'It's much easier to say it breaches an adults rights and dignity because it treats them like a child but the children are actually being cared for by the state in a way'.

As discussed in the previous section, most advocates saw an advantage in taking a children's rights angle in their advocacy and found that using the approach of children first and immigrants second was useful. One advocate from the children's sector spoke in detail about how it was necessary to tap into the public consciousness of how children 'have been hard done by' and found that this argument resonated particularly with the Department of Children, whose brief focuses on the promoting the welfare of children. This advocate compared this to previous work when primarily working within a human rights and immigration framework and how the children's focus has been more effective. References were also made to framing the argument around the various reports into child abuse, but using the argument in such a way that still recognised the differences of the situation. She then continued:

*R: But it's certainly an advantage to be taking it from a child perspective and our strong messaging that these are children first and immigrants or asylum seekers second. It's like a mantra.*

*I: Has that view resonated with the Government?*

*R: Oh it does. It is helpful now in that the Minister for Children and the last one recognised that aspect very much, and also because we bombarded them with a lot of documents, position papers stating those points. I think certainly there was recognition and the fact that the Ryan report was able to be used to push something that we had been calling for many years - the closure of the hostels (for separated children).*

Whilst the perspective above could be linked to a humanitarian approach to promoting the well-being of children, other organisations were open about the usefulness of a child rights argument within a legalistic framework. Organisations with specific legal expertise drew on specific international law relating to children. This was however not limited to the UN CRC, which was viewed by some as difficult to enforce, but other EU instruments such as the European Charter on Fundamental Rights. An interviewee from an organisation with a more legal focus explained how they were very much looking forward to having a test case to use the best interest of the child principle enshrined within the EU Charter on Fundamental Human Rights. She explained how the charter was binding on Ireland, unlike the EU Receptions Directive, which Ireland had opted out of. Another argument invoked by such organisations was also the right to family life enshrined in Article 8 of the European Convention on Human Rights.

### **6.3.5 Conclusions**

Advocates have sought to articulate their concerns in ways which are meaningful, strategic and which they hope will have the greatest impact. Whilst the Forum on Direct Provision and other coalitions have meant that NGOs often work together and develop joint strategies, there has nevertheless been a noticeable difference in emphasis, with particular organisations focusing on their own areas of strength, expertise and providing a particular slant to their arguments. The widest differentiation appeared to be in whether arguments were presented within an immigration and general human rights framework or whether they took a strong child-centred angle. Whilst some organisations were within the children's sector and therefore mainly interested in such advocacy due to the impact on children's lives, others did not view the system of Direct Provision as having a more detrimental effect on children any more than adult asylum seekers and were less likely to frame arguments from a child rights perspective.

The national vs. regional focus divide also emerged, with some recognition of the localised nature of policy making in Ireland and an appreciation that local and regional organisations can sometimes carry more weight by influencing their local politicians who pay attention to concerns of their constituents. Some regional organisations however also expressed some frustration at being excluded from certain policy fora and not having the easier access to officials that organisations in Dublin appeared to benefit from.

Some advocates had become very frustrated at the lack of general understanding and sympathy shown by Government officials and previous ministers and feared future repercussions when the full extent of the impact of the system on people's lives would become evident, with several making references to recent reports on institutional child abuse. Others however feared using language that was perceived as inflammatory or comparing situations that were not the same.

## **6.4 The proposed IRP Bill**

It would be difficult to discuss the attempts of advocates to change policies in the immigration sphere, without reference to the Immigration, Residence and Protection (IRP) Bill. The bill is an attempt to provide comprehensive reform of the somewhat complex and antiquated laws on immigration, residence and protection. It combines several areas of law (entry/removal, right to reside and seek protection ) in one bill and

was first introduced in 2008 and after six stages of amendments was subsequently withdrawn (Houses of the Oireachais, 2008). It was removed in 2010 by the then Minister for Justice Dermot Ahern who admitted it had become a ‘massive tome’ and hundreds of amendments had been tabled (Mc Mahon, 2010). A new version was introduced by the Minister in 2010 and the manner in which he did so angered some groups who felt that due democratic process had not been followed. Doras Luimní, a large immigrant support organisation based in Limerick stated at the time:

*The current Minister for Justice disregarded the democratic process on which this country is based, withdrew the bill and put forward his own and now is planning a short debate and possible enactment. By doing this he is ignoring the will of the people (Doras Luimni, 2010) .*

The debate on the new bill commenced towards the end of 2010 and many of the NGO participants put substantial resources into making submissions to the debate. Some organisations put forward specialist concerns, such as the Action for Separated Children coalition<sup>31</sup> which made a submission tabling the concerns surrounding separated children and child victims of trafficking. Another coalition of eight NGOs<sup>32</sup> concerned with immigration and protection issues also put forward a briefing paper and submission on the bill, outlining a wide list of concerns focused on areas such as summary removal, access to justice, procedural protections in access to protection, recognition of principle of the best interests of the child, protection of victims of trafficking etc. (Integration Centre, 2010). No consensus was achieved on the 2010 Bill and it was postponed once more due to the general election in February 2011. The current Minister for Justice Alan Shatter pledged to reintroduce the bill in 2013, though with over 300 potential amendments it is anticipated that it will be a new version (TD participant).

It is anticipated that the primary area of reform will be the introduction of a single protection determination procedure in which applications for various forms of protection would be dealt with together, designed to eliminate the current lengthy legal processes in which they are dealt with separately. A number of policy makers and NGO participants, regardless of their particular areas of concern were hopeful that the IRP Bill would resolve particular issues relating to asylum and immigration and that it might take place within a

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<sup>31</sup> Coalition made up of Barnardos, Children’s Rights Alliance, Irish Association for Young People in Care, Irish Refugee Council, Irish Society for the Prevention of Cruelty to Children and UNICEF Ireland.

<sup>32</sup> Coalition made up of Akidwa, Crosscare Migrant Project, the Integration Centre, Immigrant Council of Ireland, Irish Refugee Council, Nasc, Doras Luimni and the Migrant Rights Centre.



process of overall reform of the immigration system, which formed part of the Programme for Government. Interestingly groups who are expressly anti-immigration and sit on the other side of the debate also welcome the publication of the bill and the adoption of the single determination procedure.<sup>33</sup> It is also worth noting that the current Minister for Justice Alan Shatter was vocal in his opposition to previous versions of the Bill and sat on the Oireachtas Justice committee, where the 2010 version was debated and NGOs made representations to the committee and found him to be supportive of their position. One participant recognised some hope in having him now *in situ* as Minister for Justice, but also acknowledged that his stance may have altered given his current role.

*The Minister said he is going to bring in his own amendments. I hope they are the ones he was proposing when in opposition. I doubt they are! But if they are, we would probably be in agreement, because we were on-side with him and he was very effective for us when we went to the committee (NGO, immigration sector).*

When policy makers (senior civil servants and politicians) were asked about potential reform of immigration laws and policies, they also pointed to the proposed new IRP Bill and were hopeful that it would offer increased clarity and shorten the process of determination of asylum applications. Such a goal appeared to be commonly held by both advocates (on both sides of the debate) and policy makers, with most expressing the desire to have a shorter and more streamlined procedure. It was recognised however by many pro asylum advocates that the IRP Bill was not a panacea and would not provide retrospective effect for those currently in the system, as explained in the excerpt from the interview below.

*R. I think it seems it is seen as they want to sell it as a remedy for DP, it would probably shorten the time for people for their applications and that would help but that doesn't mean people would suddenly just stay for 6 months.*

*I. What would happen to people already in the system?*

*R. This would be a new system brought in for new people. So you would still have the people who don't have a conclusion on their case. I would be in favour of a single process and I do think it will have quite a few different benefits and knock on effects throughout the whole immigration system, but it's not a solution to DP. One would hope that once this system is in place, the waiting times and the amount of time they spend in DP will be reduced and*

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<sup>33</sup> See e.g. Immigration Control Platform who also express a desire for it to be implemented Immigration Control Platform (2012) 'Press Release: Alan Shatter on IRP Bill', [online], available: <http://www.immigrationcontrol.org/press.html> [accessed 06/12/12].

*that will be a good thing, but it's not a solution to the actual way that DP is administered or run (NGO participant, immigration sector).*

Some caution was also expressed by a few advocates (n=4) about the combining of the areas of protection and immigration in one piece of legislation, which are essentially two different areas of law, as explained by one advocate with significant legal expertise:

*Now what we think might be better is if they had two Bills, one that just deals with protection because immigration and protection are serving two different purposes. Immigration is about controlling borders, giving permission for people to stay here if they fulfil certain conditions. Protection is an internationally recognised Human Right, you have the right to seek asylum, it should be separated out, we have a Refugee Act and it wasn't lumped in with the Immigration Bill.*

Much of the discussion however during the interviews with both advocates and policy makers on the subject of the IRP Bill tended to be speculative; with dates and details of the potential new bill varying by participant. It was however widely accepted that the new bill would be reasonably similar to the last version and would be characterised by the introduction of a single procedure. Much speculation was made about the stance the current Minister for Justice was likely to take and whether his support in opposition for pro-asylum advocates would translate into what would be perceived by them as a fairer bill.

Whilst it would appear that some advocates have adopted a 'wait and see' approach in relation to reform to be provided under the new IRP Bill, the Irish Refugee Council in particular stand out as taking a more proactive approach and are attempting to introduce new policy alternatives in the absence of deliberate policy making by Government. In a press release in April 2012, they made the following statement in relation to the IRP Bill:

*The huge delays in the Irish protection system mean years waiting in limbo for applicants. These delays create huge problems for the people in the system and needless costs for the taxpayers as applicants are not allowed to work and are accommodated by the State in Direct Provision centres. The Bill will not address the situation of the thousands of people still living in Direct Provision accommodation (Irish Refugee Council, 2012c).*

As one response to these protracted legal situations that result in people spending many years in Direct Provision, they have focused on the opening of an early law centre in which asylum seekers can be provided with strategic legal advice at an early stage,

designed to significantly reduce legal delays and complications. The idea for an Early Law Centre was developed by the Irish Refugee Council and involved the visiting and examining of a similar project in the UK in conjunction with some Irish TDs and lawyers who were supportive of the idea. The Early Law Centre was officially opened by the newly elected President Michael D. Higgins. In his speech he spoke very favourably of the initiative and the role of NGOs and stated:

*It is also right that we acknowledge the distinctive role that NGOs have to play in ensuring that society as whole faces up to the challenge of addressing this issue on the basis of our shared humanity – a role that must be exercised independently and from a rights perspective.* (Irish Refugee Council, 2012d).

As analysed in the next chapter that focuses on policy making in this area, this statement is important in terms of firstly recognition by the President of Ireland of the role of NGOs in this arena and secondly the focus on a rights perspective, which does not feature prominently in Department of Justice discourse.

Whilst it was widely recognised by both NGOs and policy makers (officials and politicians) that the proposed IRP Bill would not alleviate the situation for those already in the asylum process, it was nevertheless viewed predominantly as sign of hope for a clearer and more transparent system that would lead to shorter periods spent in the asylum application process. NGOs still had expressed a number of serious reservations in relation to previous versions and it was too early to conclude whether such concerns would be taken on board in the new version. Some hope was expressed however that the current Minister for Justice, who was supportive of NGOs in opposition and had been vocal against some asylum policies in the past may be more inclined to take some of their views on board.

Whilst the eradication of Direct Provision was an overarching goal, particularly by the Forum on Direct Provision, some organisations emphasised the necessity to seek some compromises and find ways to make the existing system work. Such advocates generally placed higher levels of emphasis on more co-operative strategies and tended to seek to foster relationships with Government officials. The work of the Forum however also concentrated on awareness raising among new TDs and senators; attempting to have the issue of Direct Provision discussed at Oireachtas Committee level and to feed into the process of debate on the new IRP Bill.

## **6.5 Chapter conclusions**

Advocacy in relation to children and families in the Direct Provision system is complex and perceived as particularly difficult in relation to gaining public and sometimes political support. Pro-asylum advocacy is recognised as carrying inherent challenges and obstacles not necessarily prevalent in other more universalist forms of systemic advocacy (Allsopp, 2012, Hintjens and Jarman, 2009, Bhabha, 2002). Advocates working in this area often combine it with seeking broader reforms in either immigration law and policy, or in the sphere of children's rights and welfare. They are conscious of concentrating on small incremental commitments rather than radical commitments. The intersection of such advocacy and invoking of international human rights norms in a context outside the formal legal system also comes to the fore. Advocates also differ in their emphasis on humanitarian or legalistic angles. The core functions and history of each NGO also affected the particular emphasis, with broad patterns noted between the children's and immigration sectors. Regional organisations were also more likely to present issues as pertaining particularly to their region or locality and invoke the support of sympathetic politicians, regardless of party political affiliations.

Advocates differed in their perceptions of what strategies were effective and the direction future strategies should take. For some advocates, such strategies were perceived as not going far enough and more radical approaches were desired, but difficulties encountered in implementing them. There was a general sense of frustration among advocates concerning their difficulties in establishing and maintaining good working relationships with the Department of Justice. This was particularly evident among those working in the immigration sphere. A minority have however attempted to continue to foster this relationship despite its difficulties, recognising the ultimate long-term gains it may bring. Generally however, advocacy related to Direct Provision now has a significantly greater focus on politicians and this has been accelerated following the election of the new Government in March 2011. This move has been cautioned by some outside the process and within Government who recognise the important role held by senior servants. Some individual advocates have recognised this too, but at an organisational and coalition level, there appears to be a reluctance to change this trend.

This chapter has focused on the attempts of advocates to raise their concerns and to put them on the Government agenda. It has explored the manner in which advocacy strategies

have been adapted and the manner in which key concerns are articulated. It has focused specifically on advocacy related to the reform of Direct Provision and its impact on children and families. Advocates also made relevant references to other advocacy campaigns and the strategies they felt were effective. The effectiveness of particular campaigns or attempts to achieve policy change depended on a wide range of factors, and are intrinsically linked with meso- and macro-level factors such as the public mood, timing to coincide with political and public spotlight on certain issues (e.g. institutional care of children). Identifying and reacting appropriately to windows of opportunity and the timing of particular messages are crucial in attempting to put concerns on the public agenda (Hodgett and Sweeney, 2009, Kingdon, 1995). Advocates have sought to work more in coalitions and to focus particularly on elected politicians, sometimes to the detriment of building up positive relationships with key civil servants. A new Government has presented challenges in relation to informing a new cohort of politicians about a situation that is not a pressing public concern, particularly given the current macro-economic difficulties.

Advocates have sought to build coalitions and unify their positions, with a strong belief in strength in numbers and pooling of resources. Such coalitions carry similarities to Marsh and Rhodes' (1992) classification of a policy network in terms of the members having shared values and frequent interaction and a relative balance of power among members. They are however, outside of the Government, have no direct policy making role and are largely in opposition to the policies of the Government. They also carry similarities to an 'advocacy coalition' within the Advocacy Coalition Framework (ACF) developed by Sabatier (1988) in terms of their commonly held values, assumptions and problem perceptions in addition to 'displaying co-ordinated activity over time' (Sabatier, 1988, Adshead, 2011, p75). Again their role differs from classical ACF analysis, in which assumptions are often made about the ability of such coalitions to influence policy making and their potentially privileged place in broader policy making networks. Coalitions made entirely of NGOs and without a formal policy role may display many to such concepts used in the policy literature, but are possibly best classified in broader terms as interest groups coalitions (Kingdon, 1995, Andrews and Edwards, 2004). The next chapter focuses on the process of policy making, examining the opportunities available to NGOs acting on their own and in coalitions to be part of the broader policy process. This includes an examination of the particular conditions under which such

opportunities arose and the extent to which they have been able to put some of their concerns on the public policy agenda. The perspectives of the state actors and their response to such advocacy is also explored.

## **Chapter Seven:**

### **The State Response and the Intersection of Advocacy and Agenda Setting**

#### **7.1 Introduction**

Advocates attempting to influence public policy adopt a range of strategies that they believe may be effective. Broadly they are trying to influence people they believe to be ‘policy makers’, comprised of senior officials and elected politicians. This chapter examines the particular processes of policy making in the domain advocates seek to influence and looks at key instances and spaces where policy makers and advocates have interacted. In doing so, it seeks to uncover the influence advocates may have had in such interactions. The dynamics and processes involved here provide some examples of windows of opportunity that arose or were created to allow NGOs to influence the agenda setting process. Whilst some windows opened, they also closed again and NGOs did not necessarily remain inside the policy network. Within the overall context of the study, this chapter addresses the sub-research questions of:

- *What responses do advocates receive from the State (targets of their advocacy)?*
- *Have they had any success on putting their concerns on the public agenda?*

The response of the state in terms of how it makes and perceive policy in this domain and the role they feel that advocates do or do not play in this process are also explored. Policy makers are not one neat category and wide divergences in attitudes, behaviours and values exist between the various groups of officials and elected representatives. The role of advocacy from within this group is also explored, particularly where it occurred in conjunction with or alongside NGO advocacy.

The reception conditions of families and children in the asylum process have been identified by NGOs and various research reports as being one of the principal causes of concern for those advocating for their human rights. The Direct Provision and Dispersal Scheme lies at the heart of this policy and many of the interviews with policy makers focused on the development, interpretation and implementation of this policy and its various associated sub-policies. Economic policy and the effects of the recession on Government policy-making also emerged as important factors, thus limiting the

possibilities to raise new issues or set new agendas unless proven from the outset that there was a guarantee of cost savings or at least cost neutrality.

The picture of policy-making in this area is one that is complex and multi-layered and it was impossible to distinguish neatly between those that make policy, implement it and those who advocate for policy change. Whilst it had been assumed at the outset of the research that NGOs largely advocated for policy change and directed their activities towards civil servants and elected representatives, the reality of identifying the targets of such advocacy and their response to such advocacy proved to be more difficult as a wide range of viewpoints, approaches and roles were identified among the policy maker interviewee group. As elaborated later in this chapter, it became difficult to identify the real policy makers in this field and no-one interviewed used the term to refer to themselves. Whilst it can be assumed that the Minister for Justice ultimately carries the responsibility for policy making in this area, the day to day interpretation, implementation and stewardship of the policy lay largely with the relevant civil servants.

Another interesting phenomenon emerged of internal advocacy within the wider public sector, whereby arms of the civil or public service charged with implementing a particular policy (such as health, social inclusion, integration etc.) found that the policy of Direct Provision may have mitigated directly against the policy they were responsible for implementing. Whilst such actors recognised that they could not act as advocates involved in typical advocacy strategies such as protesting or campaigning, they nevertheless found ways through which they could advocate internally and seek policy change. The roles and remits of the different government agencies and departments played an important role, with different agencies often having competing policy agendas and fora existed whereby such tensions and differences were debated and various compromises reached. In relation to the policy of Direct Provision however, it was apparent that the Department of Justice was a strong custodian of the policy, with immigration control and avoiding further ‘pull factors’ being primary concerns.

The influence of NGO advocacy in such a process was not always easy to discern as policy changes and developments was often undertaken through complex processes involving a range of statutory and sometimes non-governmental actors. Conceptualising influence and establishing causality was also problematic (Andrews and Edwards, 2004). Moreover, as noted in the methodology, this study is not concerned with providing



absolute or positivist empirical evidence of causality, but rather seeks to explore relationships, dynamics and processes at play and particularly the meaning that the actors involved in such events attach to them. The use of secondary documentation in addition to interviews provided a useful combination of analysing both transcripts of meetings and participants perspectives on them. The field of study, whilst not large-scale offers an example of a particular policy domain that is controlled by multiple factors, and outside interest groups find it difficult to participate in the policy network. Values, ideas and opinions of the actors were important factors and difficulties arose where these were diametrically opposed. Despite such challenges, it was possible to discern some clear examples where the perspectives of advocates and policy makers combined led to conclusions that NGOs had been instrumental in assisting in the process of putting a particular issue or proposal on the agenda. Their control of the issue once on the agenda was often lost and in some cases the windows of opportunity closed quickly and further influence was no longer possible.

There is also the methodological dilemma of objectivity in the research and whether advocates own accounts of the success or failure of particular strategies should be taken as primary indicators, or the extent to which this should be corroborated with other evidence, such as particular items appearing as ‘agenda items’ in policy circles (e.g. Dáil debates, Oireachtas Committee Meetings etc.). Neatly corroborating and comparing the perspectives of NGOs with policy makers is also complex given factors such as difficulties of self-identification as ‘policy makers’, unwillingness to mention specific events or people by ‘policy makers’ and differences in emphasis and focus by the two groups. Notwithstanding these difficulties, there were a few instances where the accounts of NGOs and ‘policy makers’ collided and differing accounts were given of particular episodes.

This chapter commences with episodes of interaction between policy makers and NGOs where they may have had some influence on agenda setting. **Section 7.2** deals with a particular process or space of interaction, namely the interagency group structures established after the introduction of the Direct Provision and Dispersal Scheme. They ceased to function in the way they were originally set up and some NGOs feel they have been excluded from the particular process. **Section 7.3** looks at an the Joint Oireachtas Committee meeting on Health and Children, which NGO advocates indirectly

participated in and successfully lobbied elected representatives, culminating in the meeting in October 2010.

This is followed by **Section 7.4**, which provides an overall exploration of how State actors perceive, interpret and react to policy making in this domain, including a focus on internal advocacy from within the public/civil service. **Section 7.5** examines the overall response of the various state actors to NGO advocacy, and how it has or has not affected policy development. This is divided by the various groups of civil servants and politicians

## **7.2 Interagency Groups: opening and closing of windows of opportunity**

### **7.2.1 Introduction**

interagency collaboration between a wide range of statutory and voluntary agencies was an important feature of the early years of the Direct Provision scheme and was particularly important when new hostels were being established and co-operation among service providers and local community groups was considered essential. In many areas where Direct Provision accommodation centres were located, official regional interagency groups were established and these dealt with a range of issues relating to the provision of services, health care, schooling, community support etc. Initially these comprised of both statutory and voluntary agencies, including many NGO participants of this study. Separate interagency groups relating to child protection were also established, chaired by the Child and Family Services Unit within RIA, whose official function is to 'to provide a forum where RIA staff, Centre managers and staff, and relevant statutory agencies dealing with asylum seekers seek to identify and resolve issues of common concern' (RIA, 2012b). In the early stages NGOs also attended some of these meetings, a practice that was later discontinued in most areas (interviews with NGOs and policy makers).

Interagency collaboration through formalised structures can be an important means whereby state and non-state actors can collaborate, share information and each raise issues of concern and has also been shown to lead to improved outcomes for the group concerned (Carlisle et al., 2006). For the non-state actors, they can represent an opportunity to have their voice heard and to become part of the broader policy network. Minutes are usually taken at such meetings and the particular issues that may be raised by NGOs are thus documented. They are important for this study as they represent an arena

whereby state and non-state actors formally participate in the joint interpretation and implementation of government policies and new ideas and proposals may be formulated.

### **7.2.2 Perspectives of participants**

Interview participants from both the NGO and government sectors were asked about their participation in interagency group structures and were encouraged to provide narrative accounts of how they commenced, developed and in some cases ended. They were akin to policy windows that briefly opened and then closed again (Kingdon, 1995). The responses provided in relation to the purpose, structure and background of such groups varied across the participants, and regional variations in how well they operated and who attended them appeared. Relationships between NGOs and RIA appeared to work relatively well at the interagency group level in some regions, yet were very fraught in others. It was clear however, that interagency groups were largely controlled, convened and managed by the RIA and access and continuity of access needed to be negotiated with them. According to policy maker interviewees, the purpose of such groups entailed bringing together actors who had a responsibility to provide services for the asylum seeking community in the local or regional area. An official involved in the initial stages of their establishment explained how at the beginning:

*The whole purpose was to improve access to services for people in accommodation centres, but also for service providers to be clear that they had a responsibility. There was still at that time a sense that if they're in an accommodation centre, Justice has to manage all their needs. So, there was some lack of clarity around whether any of us have responsibility to provide anything to this client group.*

The make-up of service providers varied greatly according to region and often included those involved in health, education and other community services operating at a statutory level in addition to other groups in the state/community sector such as local partnership companies. Charitable organisations without an advocacy role also formed part of these groups. It appears however that difficulties arose with voluntary sector organisations whose remit extended beyond mere service provision and who perceived such groups as an opportunity to raise their concerns and saw the meetings as a potential forum for advocacy. This appeared to be in contradiction to the beliefs and aims of policy makers who convened such groups, demonstrating the diverging belief systems of the two groups within an Advocacy Coalition Framework (Sabatier, 1988). A former policy maker commented on how this relationship between RIA and NGOs was fraught and:

*...where whatever discussion, whatever plans were being made, we were always being reminded Direct Provision isn't a good thing. So you just want to - can we move on from that. We've all heard that and I'm sorry this is where we're at, so let's just make it as good as it can be. Some of the people we tried to engage with just weren't able to do that and ... everything was an argument. Some of the meetings were really, really difficult. There was just no getting over or beyond Direct Provision is a bad idea. That was all the discussion was about.*

This sentiment was echoed by a number of policy makers and another official from RIA spoke of how national level meetings with certain NGOs 'were constrained by the acceptance that the Direct Provision system is there and to make it work properly.'

A number of participants from both the NGO and policy making groups recalled their experiences of interagency groups on child welfare/protection and related issues. One immigration NGO member recalled a particular regional meeting in December 2009 to discuss childcare, child protection and the vulnerability of women in Direct Provision. It was attended by other NGOs, hostel management, RIA staff and the HSE among others. The interviewee described it as:

*It got very heated. There was no agreement because they (RIA) would not acknowledge the issues around child protection, particularly the vulnerability of women, not at all. Women only hostels – they just ruled it out, no discussion. We pushed it and they said no, we see no evidence of a need. (NGO, immigration sector).*

When questioned about the role of the HSE at this meeting, she expressed disappointment at their complete silence and how none of them spoke. When the next meeting was then convened six months later, the respondent stated that they were told they could not come to the meeting.

*And we said why not and they said there's no precedent to have you involved. And we said look here are the minutes, but he said the State agencies have said they wouldn't be comfortable with you lot in the room. ..he said we can't have a proper discussion about issues such as child protection and so on because of you lot there, you'd be running off to the papers the next day and I challenged him on that and anyway. So we spent a year fighting over whether we could be at the interagency meetings.*

This sense of having being invited and then no longer welcomed in interagency group structures was echoed by other NGOs who told similar stories of a sense of exclusion from such processes. The language purported to have been used by the official in relation to the NGOs of 'you lot' suggests a possible mutual sense of alienation from each other

and poor levels of co-operation. The suggestion of NGOs leaking confidential information to the media also reveals low levels of trust and a fear of the other. It would appear also that the structure, format and purpose of such groups was never fully established and the agency of actors in reforming boundaries and changing rules of membership was central. Other NGOs also expressed difficulties with the changing of the boundaries and were unable to ascertain who decided should be part of such groups, as expressed by another immigration NGO.

*Now, who decides who's coming is one of the questions. The management of the centre or whether it is the RIA. But it does seem to be that there is no continuation, there are no standards.*

During the last three years, it would appear that the issue of access to interagency groups at both regional and national levels by NGOs has become contentious and the windows of opportunity for influence are becoming narrower and harder to enter. Three immigration NGOs claimed that they no longer have clear information about when the groups meet and have been told directly or indirectly that they are no longer welcome to attend. Those who have attended also stated that they have not been provided with minutes. In one region it appears that the consolation for not being invited to the regional interagency group has been the establishment of a separate ad hoc structure whereby RIA meets directly with the NGOs at a separate forum, but it is not considered a formal interagency structure. In another region however, the regional NGO stated that they were invited to and attended the interagency group, and it was a reasonably useful forum for raising issues.

All except one NGO operating at a regional level in this study stated that they no longer attended interagency meetings and that they were no longer invited to do so. This was confirmed by an official from the RIA who stated that they had a difficulty with some members 'who are unhappy with the way previous meetings have come about'. It was also confirmed by the RIA that currently the interagency groups are primarily for service providers (statutory) but:

*In certain circumstance, just by dint of custom, there are some one or two groups where NGOs attend, but as a general principle, we want open discussions with our centre managers, providers, HSE, school principals and so on. There is some reluctance on their part to speak up with NGOs present.*

The official also confirmed that one way of solving this dilemma was to organise separate meetings with some NGOs outside the formal interagency structure.

### **7.2.3 Discussion**

It is therefore difficult to perceive such interagency groups as policy communities involving state and NGO actors (Marsh and Rhodes, 1992) as there appears to be a significant power imbalance and the levels of interaction are infrequent and fluctuate. They may however be closer to broad issue networks and Marsh and Smith's work on networks in British Government (2000) offers a useful framework for understanding the dialectical relationships between structure and agency; firstly and between network and context. The original structure of interagency groups at both national and regional levels was possibly more fluid and open, with a wide range of actors invited to join by the State as it was perceived that it was in the State's interest to co-opt others into the process and to deliver services within the mainstreaming service provision model adopted towards all newcomers. The agency of actors within such groups however then played a central role, with NGOs on the one hand possibly using them as a forum to criticise Government policy in relation to Direct Provision, and the State actors in turn reacting by excluding certain NGOs, thus altering the structures.

The structure of the interagency networks and how they evolved also reflects the wider contextual structures and represent a microcosm of state/NGO interactions in this field, whereby the State perceives the usefulness of the voluntary sector on one hand, particularly in relation to service provision and obtaining useful information (Melville, 2003). Such structures also represent an increased professionalisation by NGOs and a form of 'institutional advocacy' as it takes place within internal structures and relationships are sought to be built between state and non-state actors (Onyx et al., 2010, p46). Some NGO actors found however that once inside such internal structures, they were vulnerable to co-option and becoming part of the state machinery of policy implementation (*ibid*), and find they are excluded from the process if they use it to undertake more confrontational forms of advocacy. NGOs are thus faced with the dilemma of choosing continued access to state decision making structures (albeit at local levels concerned more with policy implementation than formulation) or choosing to stick closely to their principles (voicing their opposition to Direct Provision). The strongly felt opposition to Direct Provision by

NGOs has in some cases acted as a barrier to their effective participation in more formalised policy communities and appears to be the Achilles' heel for Government officials in their dealings with NGOs. On the other hand, much NGO advocacy is centred on the eradication or reform of Direct Provision and putting it aside in order to join a formalised network would be akin to disregarding their *raison d'être* for some, a price many are not willing to pay.

Whilst civil servants in the RIA tended to show a strong defence of Government policy on Direct Provision and are not willing to discuss its reform (a Ministerial policy decision), elected politicians on the other hand and officials in other wings of the State were not as reticent to criticise it. The next section demonstrates a particular episode in which the RIA officials were questioned by politicians on their interpretation and implementation of policy during a joint Oireachtas Committee meeting. This was a process where NGOs also played an instrumental role and possibly were more successful in putting their concerns on the agenda than through the interagency process in which they have been excluded and denied opportunities to raise their concerns.

### **7.3 Joint Oireachtas Committee on Health and Children**

#### **7.3.1 Introduction**

On 12<sup>th</sup> October 2010 the Joint Committee on Health and Children convened a meeting before which the Principal Officer of the RIA appeared. The chairman of that committee stated at the outset of the meeting that it involved:

*A presentation by officials from the Reception and Integration Agency and the Health Service Executive (HSE) on health issues that were identified during the committee's visit to the Monaghan and Mosney integration and reception centres (Oireachtas Joint Committee on Health and Children, 2010b).*

Such a meeting was noteworthy for a number of reasons, including:

- (i) Many of the issues discussed related to the Department of Justice more than the Department of Health and would usually have been discussed at its joint Oireachtas committee;
- (ii) Officials from the Reception and Integration Agency and the HSE (to a lesser extent) were called before the committee to answer questions in relation to

their implementation and interpretation of Government policy and some of the particular consequences as observed by committee members;

- (iii) NGOs were instrumental in working together with a number of elected members in the events leading up to the meeting and in convening the meeting itself;
- (iv) The events leading up to the meeting received considerable media attention, including a focus on the fact that members of Monaghan County Council were officially denied access by RIA to visit the Monaghan reception centre, which they then requested again in addition to a request to join the joint Oireachtas Committee delegation (Monaghan County Council, 2010); and
- (v) The correspondence, events leading up to it and the meeting itself represent a particular opportunity to explore the complexities of policy-making, the multi-faceted nature of the state and the potential of civic-state interactions in confronting other wings of the state.

In order to understand the developments of this meeting, various documents were reviewed including correspondence between the committee and RIA, a transcript (in addition to a webcast) of the meeting, media reports and various other Parliamentary Questions relating to the meeting. A number of governmental and non-governmental actors involved in the planning of or the actual meeting itself participated in the interviews and spoke of their experiences of it and how they perceived its outcomes. In this section, accounts of the meeting are provided by those representing the HSE, RIA, elected politicians (limited number) and NGOs, thus representing the broad spectrum of those involved.

### ***7.3.2 Developments prior to the meeting***

From the perspective of NGOs, this joint Oireachtas Committee meeting represented one of the major gains in terms of putting their concerns on the policy agenda. For many NGOs, the fact that the meeting took place and the manner in which it happened were significant on their own, and represented a short-term incremental gain, even it did not lead to any radical breakthrough. All NGOs who were involved in the events leading up to the meeting or who attended it were asked to describe the sequence of events. A slightly confusing picture emerged, making it difficult to fully ascertain cause and effect and who instigated which actions. A number of NGOs were active during the period leading up to the meeting in lobbying their local politicians (in a wide variety of



locations) about the conditions of Direct Provision. The organisation Integrating Ireland (now merged with the Refugee Information Service to form the Integration Centre) was singled out as having been particularly instrumental in lobbying particular politicians, who in turn developed an interest. Particular issues in relation to the hostel in Monaghan emerged, which were noted by politicians as health concerns. Both County Councillors and TDs began to take an interest and after councillors initially being refused access to the Monaghan centre, the Joint Oireachtas Committee requested and gained access to the hostel. A delegation from the Committee visited the centres in Mosney and Monaghan on 22<sup>nd</sup> July 2010. As one elected representative who was involved in the lead up to the meeting explained, ‘it was ultimately I suppose around that kind of closed door mentality that as public representatives that we weren’t allowed to go in and see what conditions were really like.’ It appeared that this initial refusal exacerbated the situation and possibly made the committee members more critical.

A large volume of correspondence ensued following these visits in which the RIA were requested to respond to a wide range of queries from the committee. These included issues such as food, childcare provision, safety of women, overcrowding, time spent in Direct Provision, aged-out minors, mental health provision and complaints mechanisms for residents.

Many of the NGOs involved in the study (n=7) stated that they were involved in the preparation of the committee meeting and some also attended it as spectators. Prior to the visits of the centres, the NGOs briefed many of the TDs and senators on particular issues such as child protection, overcrowding, and the inadequate complaints mechanisms (‘house rules’). As explained by one NGO with a strong interest in child protection issues:

*We had briefed them on the child protection issues, like where children share accommodation with both their parents, overcrowding, risks of putting children with people who are not vetted. Quite a whole host of things.*

This is evidenced in the list of questions put to the RIA and the HSE by members of the committee delegation following their visit (Oireachtas Joint Committee on Health and Children, 2010a), which indicated a high level of dissatisfaction by some with the conditions in the hostels. Examples of questions included:

- ‘Does the RIA accept that certain management practices (such as entering rooms without warning) have exacerbated the mental health difficulties suffered by many residents? What steps will it take to address this? (Question 2, Deputy Caoimhghin O’ Caolaoín)
- Should the Department of Health, rather than the Department of Justice, have a role in ensuring that the accommodation provided satisfied basic health and safety standards and does not constitute a health hazard?’ (Question 8, Deputy Kathleen Lynch).

The RIA provided very detailed answers to 31 questions defending its guardianship of the system and provided guarantees such as ‘any diminution in standards which comes to the attention of the RIA is immediately followed up’ (*ibid*). In relation to a number of health issues raised, it stated that they ‘are a matter for the HSE’. In relation to the establishment of women only accommodation centres, it stated ‘there is no evidence before RIA that this is either warranted or desirable’ (*ibid*, p13).

From the perspective of the RIA, the events leading up to this meeting were somewhat unusual and there appears to have been a number of actors involved in planning it. The representative however also stated that it was normal and completely acceptable for civil servants at a high rank to appear before such committees, and that the RIA had no difficulty in doing so. An excerpt from the interview with the representative from the RIA who participated in the study summarised the events leading up to the meeting:

*R: It was a curious confluence of circumstances - that committee wrote to an individual in RIA, relatively junior looking for permission to visit Monaghan and Mosney and it was almost matched to the day by another letter from Monaghan County Council looking to visit Monaghan Centre.*

*I: And was there an NGO involved?*

*R: There was - Integrating Ireland. ...Funny enough, I was actually asked to attend a meeting by the Irish Human Rights Commission on 12th October, the day of the Oireachtas hearing as well, so there seemed to be a confluence of interested parties involved. It might have been a coincidence, but somehow I doubt it.*

*I: Did you manage to attend the Human Rights one as well?*

*R: No, I didn’t because it was on the same day so I told them I’m afraid the Oireachtas takes precedence over the IHRC. So quite what prompted such a sudden interest in Monaghan, I don’t know... Monaghan had been there for*

*10 years, relatively unknown, it was there. I don't know what the feelings of the general committee were.*

As shown in this excerpt, there was an awareness on the part of the representative from the RIA of a series of actors working together to instigate a range of actions and the Irish Human Rights Commission is also mentioned as a potential further 'interested party'. The representative was therefore aware that a combination of NGOs, elected politicians and possibly the Irish Human Rights Commission were interested in asking the RIA to respond to a series of questions in relation to their guardianship of the Direct Provision system.

### **7.3.3 The Meeting on 12th October 2010**

The transcript and webcast of the meeting are provided in full on the Oireachtas website and provide an accurate account of what was said at the meeting. As pointed out during the interview by the representative of the RIA and another NGO, the questions asked on the day by the committee were almost all new questions and did not reflect the questions asked in the written material circulated prior to the meeting. The RIA representative present at the meeting described how she:

*...started off by reminding everybody this is the policy they (the Government) have made and they're implementing it as best they can. I think that probably took a lot of the heat out of the overall discussion. So it tended to go back to individual things, like what the TDs themselves had seen that horrified them, like storing stuff in the toilet (RIA representative).*

This was also confirmed in watching the webcast and observing how the edge in the tone of some of the questions had slightly dissipated during the meeting itself. The Principal Officer of the RIA gave a detailed response at the outset and referred to the fact that Direct Provision is Government policy to which 'there are no cheaper alternatives', and also referred to 'the pull factor' that would be entailed in the provision of independent accommodation (Oireachtas Joint Committee on Health and Children, 2010b).

The meeting itself provides a useful example of the process of policy making, the role of various actors and demonstrates the difficulty in identifying the real 'policy makers' and the accountability of those who make policy decisions. The tone of the meeting was set by the senior civil servant who stated that they are 'implementing long-standing Government policy in regard to the accommodation of asylum seekers' (*ibid*, p3); in other words implementing a policy that they were not responsible for creating. The

representative from the HSE then made a statement in which she detailed a list of concerns that they also had in relation to the health, safety and welfare of children in St. Patricks in Monaghan and concluded by saying: 'The HSE has been in touch with the management of St. Patricks and with the RIA on this draft plan and looks forward to a system being put in place to progress these matters in a constructive manner'. She also referred to a need to meet with the RIA and management to 'highlight concerns and identify how structures and facilities may exacerbate or contribute to positive or negative mental health'. The next intervention by Deputy Flanagan (Fine Gael) referred to his disappointment with the poor levels of communication between the HSE and the RIA.

There is evidence from the meeting transcript and interviewees observations on it of a system of policy introduced by a previous Minister for Justice which is firmly defended by the civil servants under the RIA (Department of Justice), but elements of which are criticised by the HSE (Department of Health) as it is often contradictory to their goals in relation to health and well-being. High level meetings are organised between the HSE and the RIA, but difficulties have arisen and policy goals of senior civil servants differ. In a parallel process a wide range of elected politicians also expressed concerns about the operation of the system and directed many critical questions to the Principal Officer of the RIA. Some of these politicians were Government Party politicians of the day and others part of the current Government (two of whom are now Ministers). Many of these politicians had also been lobbied by NGOs and they had provided them detailed information in relation to specific concerns. For NGOs, this represented an important success in terms of putting their concerns on the Government agenda as politicians were taking ownership of the issues they had raised and were in turn raising them with civil servants. The question needs to be asked however where the real policy makers were and why this particular Oireachtas Committee took an interest in the issue, as opposed to the Justice Committee, which has stronger ties with the Department of Justice. It would appear however that particular issues relating to health and families and children were identified and NGOs were invited by the Committee to attend the meeting.

The perspectives given by NGOs in relation to the outcomes of the meeting was of a reasonable amount of success in terms of having raised their issues of concern; and being invited to attend the meeting was also perceived as a bonus. One NGO member who was present during the meeting commented how 'RIA certainly didn't come out of it well...it was not necessarily hostile but you could see that they (the committee) were fed up to the

gills with RIA.’ Another NGO was taken aback at how forceful the members of the committee were and described it as:

*RIA couldn’t come back and say, these NGOs have been telling you pokies and so on. It wasn’t that. They had actually gone there... the female members of the committee were even more vocal about the issue of children because they saw. I don’t know if men are less sympathetic, but some of them I can even remember Kathleen Lynch and there was another one that was very good and were very strong. They really took RIA to task. It was the first time I had seen RIA officials squirm a bit in their seats. They were quite forceful.*

Another NGO member who attended provided a colourful account of the meeting, including how the representative from the RIA supposedly had not known that the NGOs were attending, and they had not mentioned it when they met him a few days prior to the meeting.

*R: We had been working very hard behind the scenes and he (RIA representative) was saying we really just squeezed you in because we’re up to our eyes with this Oireachtas committee, we don’t know whether we’re coming or going. And then when he walked in, he saw us there!*

*I. He didn’t know you were coming?*

*R. No, we hadn’t said. And we had brought a group of asylum seekers with us and he was raging at that. But they understand how important it was to have RIA on the record. And when they saw RIA being challenged, they saw TDs standing up to them and challenging them. What about the issues of deaths in the hostels, what about the health inspection. And the doctor that RIA had brought along as part of their delegation and he turned round and disagreed with them. It was just wonderful (NGO, immigration sector).*

This demonstrates a slight confusion of roles, whereby politicians (including members of the Government party) took officials ‘to task’ and raises issues of accountability in relation to policy making. As discussed in Chapter Six, advocates have concentrated more of their recent efforts on politicians rather than Department of Justice officials, yet it would seem through this committee that their advocacy towards politicians indirectly resulted in concerns being raised (by politicians) in turn with civil servants. No political representative of the then Minister for Justice however was present at the meeting and therefore no-one with ultimate decision-making authority representing the Minister for Justice. Some of the issues raised at the meeting were however referred to the Justice committee, which did not schedule a discussion on the issues before the resolution of the 30<sup>th</sup> Dáil in March 2011.

When the civil servant from the RIA was questioned during the interview about the meeting itself, the conclusions provided differed slightly. He stated it was considered normal to provide answers to such committees, but that Government policy itself was not directly called into question: ‘the Chairman as I recall said there was a general consensus that the DP system should remain and that it wasn’t recommended that it be abolished’. Whilst other aspects of the policy were called into question, the overall policy was not and this was considered very important by the RIA representative. Much of the discussion of the latter part of the committee meeting focused on the changing and interpretation of the house rules and the issue of ‘vexatious complaints’, which the RIA agreed to review again to ensure that it did not suppress complaints.

Other policy makers present at the meeting (or who had closely observed it) also provided their perspectives both on this particular meeting and on the roles of elected representatives in the policy making process. Elected representatives interviewed were sympathetic towards the role of civil servants and generally agreed that their role was not to make policy, and that they should not be blamed for poor policy decisions. One elected representative however, did refer to the potential influence of senior civil servants in particular and how they can persuade ministers. She also referred to an ‘inherent conservatism’ within the civil service and a general reluctance to change. Another also singled out very senior civil servants such as directors of agencies having special powers delegated to them by the Minister. A committee member who is now a junior Minister spoke also about how:

*Civil servants continue to do what they’ve always done unless they are directed otherwise, so it would take a proactive decision by the minister or the government to decide to change things.*

She continued however that Ministers are charged with implementing commitments under the Programme for Government that fall within their area of responsibility, which are in turn closely monitored by the Taoiseach (Prime Minister) and the Tánaiste (deputy Prime Minister), but she had not as yet been involved in discussions about how such policy may be changed. Another former senior civil servant reflected on this meeting and concluded:

*I think that says something about our governance, who does actually take ownership of our policies. And where you know somebody who is in the frontbench TD complaining about a policy they actually have to stand over because they're the government is very weird. So it's quite a strange. Obviously that's not unique to Direct Provision. I think that says something*

*about how provincial about the way we manage the country is. People cherry pick what bits of policy they're happy to stand over.*

This last statement in relation to people choosing the pieces of policy they are happy to defend resonated in many of the interviews with elected representatives, civil servants and observers. The committee meeting is also a prime example of where elected representatives expressed difficulties about the execution of a particular policy, but were slow to criticise the policy itself or to suggest any alternatives. The Chairman of the Committee concluded the meeting by saying:

*I do not think many of us disagree with the Direct Provision model. Most of us support the Government's policy in that regard. We accept the need for economies in the current climate... We emphasise that certain standards of respect for the individual must be evident in the reception centres (Oireachtas Joint Committee on Health and Children, 2010b)*

Overall it was agreed that certain issues in respect of particular reception centres required attention and that the house rules were to be revised, but no conclusion was reached on questioning the policy of Direct Provision *per se*, despite some serious reservations expressed by committee members in relation to the manner in which it operates.

#### **7.3.4 Further influence and consequences**

One of the interview participants from the observer and funders group commented on the role of this and other Oireachtas sub-committees:

*All those nice Oireachtas sub-committees and so on, they're all great and lovely and people get really informed but unless the Minister for Justice is there and also takes on the findings and the recommendations of the sub-committees, then it won't go any further. So unless Shatter (current Minister for Justice) at the moment who was very active and supportive when in opposition, actually makes space to deal with the IRP Bill and some of the other stuff that's going on, it doesn't matter.*

Such a view perhaps represents some of the realities of policy-making and the difficulties inherent in trying to change policies that ultimately come within the remit of the Minister. Introducing legislation is obviously a powerful tool and it was agreed by many interview participants from both the government and non-governmental sectors that the debate on the IRP Bill would be crucial for reform in this area, even if it does not necessarily deal specifically with Direct Provision. From the perspective of the NGOs, who often seek small incremental changes, the committee meeting was successful and for many it represented one of the largest successes of their advocacy campaigns in this area. This was

due to the fact that the issues they have so frequently advocated about, were taken on board by cross-party elected representatives, raised in a public forum and put on the public record. It was agreed however that no large-scale changes took place directly as a result, but it was felt that it was the beginning and a method for putting their concerns on the public agenda. One NGO respondent commented in relation to the follow up from the meeting that a number of Parliamentary Questions were raised directly in relation to it by a TD from the committee and ‘that’s how you get the sense because they can say a lot to you one to one but it’s when they put it out there in the public forum that this is an issue of concern so I’m going to ask you. He took this mantle big time and that was great and got it out there.’ This was important to this NGO as it demonstrated that the issues discussed during the meeting were not forgotten about and that one TD continued to raise them in the Dáil.

A HSE interviewee also acknowledged that post the meeting, some of the issues of concern identified in St. Patrick’s in Monaghan had been alleviated through refurbishment of the centre and acknowledged the difficulties for RIA in trying to bring all centres to a specific standard, but that their ‘hands were tied to a certain extent’. This notion of people’s own or other’s hands being tied and being powerless to affect real change resonated through many of the interviews with the policy maker group (elected representatives and civil servants) and the question of who really are the policy makers and to what extent they can and are willing to bring about change arises. One TD who participated in an interview also made frank remarks in relation to the challenges inherent in the current dominance of economic policy and achieving fiscal savings, in addition to the poor levels of public sympathy for asylum seekers. Whilst this Government party TD felt passionately about the conditions of asylum seekers in Direct Provision and frequently raised it in the Dáil, he recognised that the IRP Bill would be an important milestone in terms of streamlining and expediting the asylum process.

In relation to the question of whether this meeting represented an opportunity for NGOs to influence the agenda setting stage of policy-making, a positive answer can be given. Using Kingdon’s (1995) metaphor, the meeting was similar to a policy window that briefly opened and closed. This window of opportunity however was not a random event and was in fact carefully crafted by NGOs in their advocacy directed towards politicians. The degree of randomness and stochastic elements that Kingdon attaches to such policy



windows is not present here and the events leading up to the meeting were more rational and deliberate than suggested in his framework (Bonoli and Shinkawa, 2005). The NGOs deliberately chose those with an interest in children's and health issues and perhaps perceived that they would be more sympathetic than those with an interest in justice issues. Regional NGOs contacted their local politicians and Integrating Ireland in Monaghan (who also made a presentation at the meeting) was crucial in instigating the events leading up to the meeting. In this case, the NGOs (outside interest groups) formed alliances with politicians and found strong allies both in (expected) opposition parties and in some cases with Government party TDs (who were slightly less vocal in their opposition).

### **7.3.5 Discussion and Conclusions**

Agreement appears to have been reached within this temporary policy network (of NGOs and some politicians) on the negative effects of the *implementation* of the system of Direct Provision. Senior civil servants with responsibility for its implementation were informed of such effects and asked to reform the way in which it implemented the policy that would lead to more humane conditions. Whilst the NGOs' ultimate goal may have been the eradication of Direct Provision, this did not appear as the goal of the majority of the committee members who instead concentrated on the manner of its implementation. In this sense, there was not necessarily a shared policy monopoly (Baumgartner and Jones, 1993) between the NGOs and the committee members. Committee members also showed some reticence to criticise a policy domain under the Department of Justice firstly; and secondly to make any assumptions in relation to the policy formulation powers of senior civil servants. This comes under the 'political' stream of policy-making in which various organised political forces combine and decision makers become aware of conflict or consensus among these forces (Kingdon 1995, p150). Consensus among a wider group including public opinion can help decision makers to move in a certain direction. In this case, conflict among political forces and interest groups exists. Policy positions vary depending on whether the focus is primarily on the welfare and rights of asylum seekers or defending the dominant Government position within the Department of Justice, which seeks to ensure that asylum policy does not create any 'pull factors'. Kingdon notes how much of the time 'a balance of organised forces mitigates against any change at all' (1995, p151). This may hold true in this case where a Minister for Justice becomes aware of strong arguments from both sides, with civil servants strongly

defending a system they claim is working and producing the best value for money and NGOs and certain elected politicians claiming it is inhumane and in breach of human rights obligations. It is also an issue no longer in the media spotlight and public awareness of the particular issues is low (interviews with several NGOs).

Whilst it is possible to view this meeting as an opportunity that NGOs were involved in creating that allowed them to put their issue on the public agenda, it cannot be said that it led directly to any policy changes, other than some minor amendments to the 'house rules'. The issues and concerns were raised and ownership was taken of them by elected representatives, of whom some in turn raised them in subsequent Dáil debates. Whilst the NGOs (interest groups) played a role in raising the issues (indirectly), they did not necessarily control the debate once raised (Kingdon, 1995, p50). The quote by the research participant in relation to the role of such committees not making a difference in the absence of the decision-making power of a relevant Minister however is important. It demonstrates how such parliamentary structures are useful in terms of discussing and raising issues, but may not carry huge weight in terms of affecting subsequent policy change. Parliamentary committees are recognised as central to parliamentary democracies and advantages include the increased efficiency, policy specialisation of back benchers, a less partisan environment than the plenary (Martin, 2010). They are also recognised for their potential for opposition influence (Strom, 1990). Weaknesses have also been identified in the Irish Oireachtas committee system, including the dominance of Government parties and their low levels of legislative influence, the limitations on the nature of evidence and witnesses that can be called before such committees, poor attendance and low levels of interest and time for committee work (Martin, 2010).

In the current scenario, senior civil servants were called before the committee and asked to answer questions in relation to their implementation of a particular government policy. NGOs were influential in instigating these events and influenced the types of questions that were asked by the committee members both before and during the meeting. NGOs did influence agenda setting in the sense that they raised their concerns in relation to the Direct Provision system not being a conducive environment for families and children and difficulties in relation to an independent complaints procedure. On the other hand, they did not influence agenda setting in the sense of placing an entirely new item on the government agenda. Their ideas were not necessarily new, nor did they actively propose alternatives. No radical changes or a shift in the equilibrium (Baumgartner and Jones,

1993) occurred as a result of the committee meeting, and no further references were made to it within the Joint Committee on Justice, possibly illustrating the disjointed nature of such committees.

To summarise, this episode was however important and demonstrates the potential of NGO advocacy to bring about a series of events leading to the committee meeting and their agency was central in doing so. It also demonstrates the complexities of debating policy implementation and interpretation in such a committee, in a context where there is a fear of directly criticising the policy itself. The committee members disagreed with several aspects of the manner, in which the policy operated, yet were very reticent to criticise the policy itself. Much debate concentrated on detailed technical matters, often pertaining to a particular hostel and it did not necessarily broaden to cover the wider operation of the national policy. For the NGOs however this meeting was perceived as successful as their issues were put on the public record and for some there was a certain satisfaction in seeing the relevant civil servants being questioned over their implementation of Government policy. The subsequent change in Government and delays in bringing the issues to a further stage (Joint Committee on Justice) indicate that it may be difficult to associate it directly with longer-term policy change.

#### **7.4 Policy makers perceptions of policy formulation and agenda setting**

##### **7.4.1 Introduction**

The term ‘policy maker’ is employed widely in the context of this study and incorporates both senior civil servants from different departments and agencies, elected representatives who have shown an interest in this area, and an intergovernmental organisation that plays a role in advising the Government. As noted above the use of the term here does not necessarily imply that they have a direct role in making policy or that they view themselves in the role of ‘policy maker’. In addition to the interviews, the perspective of policy makers in the broader sense is also ascertained from policy documents and secondary literature. Whilst it became apparent in the interviews with the NGO participants that many of them had a shared focus and ideology and they often worked together towards attaining these shared goals, the same did not hold true with the policy makers. The State is multi-faceted and made up a myriad of actors, institutions and processes with varying and sometimes competing policy goals. Policy is made and interpreted at various levels, in various forms and its implementation and interpretation

and at the street level can vary from the original intentions of the policy and its implementation at this level can in effect become the policy (Lipsky, 2010). Placing NGO advocates and state actors on opposite sides of a spectrum (pro or against Government policies) was not necessarily useful as the intentions, actions and constraints of state actors varied greatly. Some individuals shared views much closer to those of NGO actors than of official state policy emanating from the Department of Justice. Policy relating to asylum seekers from this department also came into conflict on occasions with other government policies concerned with the welfare and health of its population.

The role of internal advocacy and ‘policy makers’ who advocated internally for policy change emerged as an important factor, which also made it difficult to gather conclusions on the intentions or goals of the state. Internal advocates were found among politicians from a wide range of Government parties and often reflected the links with their constituents (in many cases asylum seekers who made direct representations to politicians) and NGOs within their constituencies. Advocates for improved conditions for asylum seekers were also found among civil servants, predominantly in agencies and departments other than the RIA.

This section focuses predominantly on the perspectives of policy makers and some observers in relation to their understanding and implementation of Government policy and the ways in which they seek to influence it, block it or propose new ideas. Whilst elected representatives have a clear and stated goal in relation to legislation and policy formulation, the role of the civil service is different and by definition of their role they must tread much more carefully and avoid direct confrontation or opposition. Their actions and choices are obviously constrained and affected by their institutional context (March and Olsen, 1996); yet through the agency of the actors we can discern a trend among some individuals to adapt and work within the system to find new ways of interpreting and implementing policies that may differ from the original intentions of the policy makers. Some of these civil servants are not necessarily involved in street level implementation (Lipsky, 2010), but may sit on high level policy committees where they attempt to influence new policy formulation and putting new ideas on the agenda. This often happened at a national interagency level, where certain tensions had arisen. The goals and aspirations of some individual civil servants in the HSE and other Government agencies shared some similarities with those of NGOs. Such individuals have in some

cases also formed alliances with some NGOs and discreetly work to assist them, without becoming directly involved in advocacy *per se*.

#### **7.4.2 Perspectives on formulation and implementation of Government Policy**

*Departments that have had to interface directly with asylum seekers and their families have understood over time the complexity of the situation and have been much more pragmatic around how to deal with the situations that arise. The Department of Justice however on the other hand have held on to this very cynical view of containment. But also there's a fear there that if they relax any of the rules and policies that they have, it could act as a green light for waves of asylum seekers to start descending on our shores, and they will use language like that to create any pull factors. So they cut right back and they deal with it all in terms of containment of maintaining a system which will not encourage people to come here and try and process people and get them back out as quickly as possible thereafter (observer).*

The quotation above from a member of the observer/funders group of interviewees demonstrates a trend that emerged throughout the research, of a particular paradigm within the Department of Justice of containment and control and a fixation with the avoidance of pull factors for future asylum seekers. Other Government departments appeared however to struggle with the implementation and interpretation of policies that sometimes appeared not always to be in the best interests of the individual. Lack of clarity in relation to precise entitlements of different groups of migrants sometimes also made it difficult and discretionary powers of certain posts (such as Community Welfare Officers) also meant that policies and regulations are not interpreted uniformly throughout the country.

For civil servants working for the Reception and Integration Agency (currently or formerly), it appeared that policies were relatively clear and straight-forward and they viewed their role as primarily implementing Government policy and as guardians of the Direct Provision system. They also recognised however that the system was not perfect and that the living conditions could give rise to tensions within families, especially where they were sharing bedrooms with limited space. The recognition of the difficulties in parenting under such conditions was recognised and initiatives such as the *Early Years Services* to support parents of young children and the *All Ireland Immigrant Parenting Programme* were introduced to alleviate such strains, although such programmes have suffered from recent Government cutbacks.

The question of who makes policy and the extent to which the RIA operates as an independent agency also arose in the interviews. It became apparent that whilst the civil servants did not have a formal policy-making function, they nevertheless were given a relatively wide discretion in the manner in which they administered and implemented such a policy. Their capacity as advisors to Ministers was also important and it appeared that they were most likely to advocate for safeguarding the status quo rather than pushing for any radical changes. The RIA representative explained how this relationship with Ministers and the RIA operated in practice.

*There is very little direct ministerial involvement in the running of RIA. And I'm saying this hand on heart, I'm there 5 years now. No Minister has ever instructed a centre be opened, or a centre be closed or that somebody be sent to this or that centre. The operational side is entirely in the hands of the civil service. Now any minister current or future— can easily change that and say I want this or that to happen and we would follow that, but I think I don't know what briefing is given to ministers when they come in, but I suspect when the issue of the RIA comes up, it's leave that up to civil servants, you don't need to bother yourself with that, other than to answer PQs or make sure the function is being carried out, but the day to day running of the RIA is very much down to civil servants.*

Whilst the overall broad policy of Direct Provision lies clearly with the Minister for Justice, the day to day operation of such a policy and the various nuances in its interpretation and implementation lie primarily with the RIA. Whilst the eradication of Direct Provision is an ultimate goal for many NGOs, many tensions and difficulties arose in relation to its operation and the variance in standards across the country. This also stemmed partly from the variety of private service providers managing the hostel accommodation and the lack of uniform standards, inspection and training for such operators. Such managers held contracts with the RIA, who explained that it was in their interests to reach high standards in order to have their contracts renewed. It would appear however that ministerial interference in the manner in which such contracts operated or inspection regimes was minimal and the RIA largely administered such matters in an independent manner.

The representative from the RIA also talked about the evolution of the policy of Direct Provision and how it was introduced at a time of crisis. She also made reference to the political nature of the 'problem' and how the Government were concerned about its dominance of newspaper headlines. As discussed in Chapter Three, it became a dominant

issue on the public agenda in the late 1990s and the policy of Direct Provision was a policy response to the perceived problem. The Government also became more aware of its international obligations and at least meeting the minimum standards laid down in the Geneva Convention and later various EU Directives (with some exceptions).

*In the late 1990s, early 2000s there was a huge influx of asylum seekers coming into the country. And they were being treated as homeless in the same way as the indigenous homeless population were being treated. But that was unsustainable because most of them were claiming asylum in Dublin and it was falling to the then Eastern Health Board to accommodate them. So frankly the situation was out of hand, there was a widespread prospect of homelessness and the Government needed to deal with the matter very quickly. And it also had to deal with the political aspect of it, which was that the problem was by that stage dominating newspaper headlines, mainly in Dublin. The Government had to ensure that our international obligations for accommodating asylum seekers were met but also that the problem had to be shared. It was a problem not only of accommodation, but also of health and education (RIA representative).*

The RIA representative continued to explain how Direct Provision served the purpose it was set up for and as a result no asylum seeker had been left homeless. Later in the interview when asked about whether such an emergency response was then mainstreamed, she replied it was and continued:

*My experience generally in the public service is however it starts is how it ends. Things very rarely metamorphose in the middle of it to something completely different, they tend to be however you start something is how you finish it. And that's both good and bad. If you start something well, it will finish well. If you start something badly, it will finish badly. That's my experience of it. That also applies to RIA and I suppose in broader terms we believe the standards in our centres have improved, in the last ten years through the inspection processes. And also by virtue of the fact that our service providers are becoming very experienced.*

This view of the policy-making process could be theorised as a period of stability following a punctuation of the equilibrium during the 'crisis period' of the late 1990s (Baumgartner and Jones, 1993). In other words, policy on Direct Provision was introduced when the issue of the accommodation of asylum seekers became a public issue and was put on the public agenda. Competing interests abounded at that time, including the needs of asylum seekers, NGOs and various support groups that emerged seeking a humanitarian response, international obligations, fear of a pull factor and political awareness of not being perceived as being too lenient towards 'undeserving others' (Lentin, 2003). The issue was strongly on the agenda at the time and the adoption of the

policy was perceived as a pragmatic solution that partly met many of the competing demands. In the period after its introduction, it is clear from a range of Dáil debates and policy document that the Government was satisfied during the period of 2001 to the present that it was meeting these objectives and the reduction in numbers of asylum seekers appeared to demonstrate that it was not acting as a further incentive. Despite strong opposition to the system by NGOs and some elected representatives (mainly in opposition parties), public policy documents (RIA, 2010) and discourse demonstrates a general satisfaction with the overall system at a government level and a sense of equilibrium reigned. The representative from RIA also summarised how: ‘The asylum seeker situation from a political perspective has gone away from the front pages. Occasionally it raises its head, but it is no longer a *Prime Time*<sup>34</sup> issue’ (Interview, RIA representative).

Most policy makers agreed that the length of time people spent within the system was however problematic, with opinions on the root causes of this varying. Some suggested that there were too many legal avenues open and that lawyers contributed to protracting the situation, others suggested that deportations were not carried out in a timely enough manner and it was also suggested (by the RIA) that people determined this by themselves through their own actions (in taking further appeals or seeking humanitarian leave to remain etc.). The current Minister for Justice who opposed many aspects of the Direct Provision system whilst in opposition (Smyth, 2010b) currently acknowledges the difficulties associated with the length of time people spend in the process, but stated recently in the Dáil that he is satisfied that the system of Direct Provision is ‘in compliance with human rights obligations placed on the State by domestic and international law’ (Dáil Debates, 2012b). It would appear that the current Government intends to bring in reform of immigration law, as proposed in its Programme for Government, but as discussed in the previous chapter, this is most likely to be through the IRP Bill and early indicators show that Direct Provision will remain as core Government policy<sup>35</sup>, albeit for shorter periods of time.

Civil servants from other Government agencies who were interviewed were generally more reticent about the policy of Direct Provision. Responses in relation to their views on

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<sup>34</sup> Irish current affairs television programme

<sup>35</sup> This position was reiterated by Derek Nolan T.D. during an NUIG public seminar on Direct Provision and children, co-hosted with the Irish Refugee Council on 16<sup>th</sup> November 2012. See <http://www.childandfamilyresearch.ie/launch-direct-provision-reports-nui-galway>.



the development of the policy included two who stated clearly that there was an obvious need to reform it as it was no longer fit for purpose, compared with the relatively urgent situation in the late 1990s. Others pointed to difficulties it caused for families and children and believed the lack of autonomy was having a detrimental effect. Such statements were also echoed by several of the elected representatives interviewed, who were mainly in one of the Government parties. Some of these representatives had also raised these issues recently in the Dáil, but were provided with standardised responses in relation to the policy being the most appropriate in the current economic climate (Dáil Debates, 2012a).

#### ***7.4.3 Changing the system from within – public sector advocacy***

It could be presumed that civil servants largely implement Government policy and are not advocates for change in the same way that NGOs lobby and push for change. Whilst this was true for the most part, a number of examples emerged in the research of civil servants openly disagreeing with certain aspects of Government policy and using the powers available to them within their particular agency to advocate for change. The methods of advocacy differed to those of NGOs and tended to be much less confrontational, with less emphasis on blocking of proposals and a greater focus on the proposing of alternatives (Kingdon, 1995). Policy in relation to the operation of Direct Provision and rights and entitlements of asylum seekers generally emanated from the Department of Justice and the RIA in particular acted as a strong custodian of such policies. Officials working in other departments and agencies such as the HSE however viewed and interpreted such policies differently and their policy goals often differed, with more emphasis placed on issues such as health and well-being and less distinctions made between different categories of the population. Officials within the HSE often expressed concern regarding the impact of Direct Provision on the health and the mental health in particular of the residents.<sup>36</sup> One HSE worker explained how both the HSE and the RIA were implementing Government policy ‘but our overarching framework is also the fact that people have a right to good health and we’d be concerned about the health and well-being and the impacts of Direct Provision are not conducive to that.’

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<sup>36</sup> This was expressed both in the interviews with HSE officials and in various official documents and statements. See e.g. HSE (2007) 'National Intercultural Health Strategy 2007-2012', [online], available: [http://www.hse.ie/eng/services/Publications/services/SocialInclusion/National\\_Intercultural\\_Health\\_Strategy\\_2007\\_-\\_2012.pdf](http://www.hse.ie/eng/services/Publications/services/SocialInclusion/National_Intercultural_Health_Strategy_2007_-_2012.pdf) [accessed 06/12/12].

Analysis of policy documents and research reports in relation to migrants from the HSE also indicated a discernable trend of research, statistics and statements that indicated concern with the conditions of the Direct Provision system (Manadhar et al., 2006, HSE, 2007, HSE West, 2006). An example includes a HSE Conference on the mental health needs of minority groups in Ireland, which concluded:

*The mental health problems of asylum seekers increase after they arrive in Ireland. This is due to living in Direct Provision hostels on only €19.10 per week; being socially isolated and ghettoised; dehumanised; overcrowded; not being allowed to cook or to work; losing control over their own lives, and not being able to express their concerns. New mothers can be isolated and depressed. (HSE West, 2006, p32)*

Such views were also expressed by other civil or public servants in the interviews and many agreed that the length of time spent in Direct Provision was the greatest difficulty. One public servant also expressed a difficulty with the fact that the Office of Migrant Integration did not deal with asylum seekers and how issues such as children not being able to participate in school outings or extra-curricular activities impeded their integration. She did state that such issues were brought to the attention of the RIA, but limited responses were provided during the interviews on their reaction and what happened after such issues were raised. This was a common thread throughout the interviews with civil servants, who expressed some personal dissatisfaction with the implementation of Direct Provision policy, but appeared reticent or unable to give detailed accounts of how they raised such issues with other Government officials and the responses given. In many cases they stated that they brought these issues to the attention of their superiors or to the attention of the RIA if they were involved in interagency discussions, but it was not very clear from the responses what the next steps involved. One civil servant involved in the national interagency meetings explained however that the relationship with the RIA had been more adversarial in the past, but they now tried to make the relationship work more effectively:

*We would have been advocating on behalf of clients and their health needs and I think their remit is totally different. They are following government policy in accommodating asylum seekers, so we've had to respect each other's remits. It's been quite a long process. We've established a trust at that level, that we can say we've heard this, what can you do or what do you think. At the end of the day there has to be some protocol followed and the idea of that group is not to address every single issue that comes up because it should be addressed at local level. But if issues can't be resolved at local or regional*

*level, then they get escalated up to that group, so it's a way of resolving issues (Participant, HSE).*

The interactions during the Joint Oireachtas Committee Meeting on Health and Children discussed above also indicated a lack of clear communication and mutual understanding between the HSE and the RIA. During the interviews, HSE and other officials spoke of attempts they made to highlight issues of concern, but clarified that they were not advocates or lobbyists in the traditional sense. One official emphasised the role of research and explained how it can be very effective in highlighting a particular issue and saw it as one of the most important ways of trying to change government policy 'because you really need to have facts and some proper information. I think it's all very easy for people to say Direct Provision for example, it's not ideal but you need to have some information to back it up' (participant, civil servant). She also explained how any advocacy needed to be done 'in a subtle way' and that they were not in a position to protest in the same way as NGOs. Certain officials within the HSE in particular demonstrated an interest and willingness in highlighting issues that arose and that may have been raised by health workers and others within the HSE working directly with asylum seekers. Some also expressed a certain amount of empathy and agreement with the work of the NGOs, also corroborated in the interviews with some NGOs who indicated that certain officials were receptive to them.

The number of officials in the HSE and other Government agencies interviewed was small and those who worked specifically in the areas of asylum seeker support or social inclusion may have naturally had a greater pre-disposition to sympathy towards asylum seekers. Early retirement schemes and general cut backs had resulted in far reduced numbers working in this area and some key individuals (identified by NGOs) no longer worked in the HSE. This, in addition to reduced finances also impeded the implementation of policies such as the Intercultural Health Strategy (HSE Social Inclusion Unit, 2011).

Members of the HSE and other officials also participated in national high level interagency groups with the RIA, a theme alluded to also in the Joint Oireachtas Committee meeting. Such meetings were initially confined to the HSE and the RIA, but now also include the newly formed Department of Social Protection given that many of the difficulties that arise involve social protection issues, and the post of Community

Welfare Officers has been transferred to that Department. One member of this group explained how they had emphasised the importance of flexibility in relation to exceptional needs payments, which operated previously with a high degree of flexibility within the HSE and they hoped that it would not be lost in the new department. Whilst no interviewees (from either the RIA or HSE) acknowledged any open conflict within such structures, it was apparent from both the interviews and official documents that differences in emphasis existed and policy goals differed. Minutes of such meetings were not publicly available, an issue which was raised by Deputy O’Caoláin during the Committee Meeting on Health and Children (Oireachtas Joint Committee on Health and Children, 2010b). Such high level national meetings are also held in relation to families and children in the Direct Provision system, which had led to the secondment of a staff member from the HSE to the RIA to manage child protection issues, a post that has however now remained vacant since 2007.

Whilst a number of public or civil servants outside the Department of Justice and a considerable number of elected representatives attempted to raise their concerns in relation to the operation of the Direct Provision system, there was however little evidence of these being taken on board at a broad level. It also appeared that certain individuals operated out of personal concern and were termed by one NGO interviewee as ‘certain beacons of light’, but did not necessarily operate in a system that supported them or encouraged such ‘policy entrepreneurship’. Interviewees from both the civil service and NGOs also explained how integration across the system was difficult and issues and concerns easily became lost in large bureaucracies.

Within the HSE in particular, complex administrative procedures means that integration across various sections with competing priorities is challenging (Nurse, 2010). The agency of such individuals is important and examples exist of how they have tried to transcend existing structures to put their concerns on the agenda at the micro and meso levels (Marsh and Rhodes, 1992). Within political psychology, it is also recognised that ‘political processes and outcomes are shaped at least in part by the preferences choices, and actions of individuals and groups’ and that whilst structures are important, they alone do not determine outcomes (’t Hart, 2010, p100). The examples above demonstrate to a certain degree that individual agency and their preferences and views do play a role. Yet, in this particular policy domain, the Department of Justice and its particular concerns in relation to containment and avoidance of pull factors remain dominant. Structural barriers

exist and the location of asylum reception policy within the Department of Justice, coupled with the removal of asylum seekers from the remit of integration policy have given rise to a lower emphasis on humanitarian and welfare-related goals. It has also led to a situation in which decisions relating to the operation of hostels ultimately lie with the RIA, which has been given a high degree of autonomy and independence. It would appear that the culture within the RIA is one which fully endorses and defends the policy of Direct Provision and there is an acute awareness of the need to avoid additional pull factors, a factor the RIA representative stated was the strongest for any Minister for Justice.

## **7.5 Policy Makers' perspectives of NGO advocacy and its influence**

### ***7.5.1 Introduction***

The question of how NGO advocacy was perceived by 'policy makers' and what influence they felt it had is complex given the variety of views held by policy makers and their disposition towards NGOs. Broadly speaking, the views of policy makers on this subject can be divided between the three groups of: (i) elected representatives; (ii) RIA officials; and (iii) other civil servants. These are dealt with separately initially:

### ***7.5.2 Elected representatives***

The elected representatives interviewed generally did not express particularly strong views on the role of NGO advocacy and many of them expressed views and priorities similar to those of the NGOs. NGOs had worked carefully in lobbying and collaborating with particular politicians and identified core allies. These allies were to be found across the political spectrum and included members of the Labour and Fine Gael parties (previously in opposition, currently in Government) in addition to some key individuals in Fianna Fáil (in Government until 2011, currently in opposition), Sinn Féin (not a previous or former Government party) and some independents. As discussed in Chapter Four, accessing elected representatives for the purpose of interviews was very challenging and only three participated, all of whom also demonstrated interest in this policy area and were sympathetic towards the work of NGOs. Searches were also conducted of Dáil and Committee debates and other statements issued by politicians to discern their awareness of and reactions to the advocacy work of NGOs in this area.

As stated above, the politicians interviewed were receptive to NGOs and the research study area and therefore do not represent a broad cross-section. They all expressed encouragement for the work of NGOs and pointed out particular instances or examples of NGOs that were particularly strategic in their approach. This included for example one politician (currently in Government) who appreciated how one NGO in particular was very clever in their argumentation and used economic arguments to show how reform of the system would ultimately be more cost-effective and how ‘those arguments have by necessity have crept into every policy argument’. The domination of economic policy was a common thread among politicians and whilst they recognised that many reforms would be laudable, they agreed that the current fiscal situation precluded any reforms that were not at the very least cost-neutral. This they felt applied to many of the demands of the NGOs, which often would be difficult to implement in the current climate, such as the right to work or the provision of independent accommodation.

Elected representatives also acknowledged that the issue of asylum seekers in general had somewhat fallen off the public agenda and did not ignite the public interest either positively or negatively as it had previously when numbers were much higher. As one politician explained:

*I mean if we are being very honest this issue isn't one that ignites public interest, there is huge public apathy towards it and I think because the numbers are declining so significantly from the peak, I think it's gone from 12,000 from some point in the mid 2000's to under 2,000 people applying that the kind of the rage which was generated amongst certain hysterical...I think things have calmed down a bit, it's just not an issue and people have their own worries and you cannot condemn someone for not being worried about somebody else when they have to struggle to pay their mortgages or they're telling their kids that you can't go to swimming lessons anymore because we can't afford it, where they have their own issues so you can't expect people to be worrying about everything but I think that the decrease in numbers, it's not a priority for the average person I don't think (elected representative).*

This theme of issues relating to asylum seekers being somewhat less topical and also lower levels of concern resonated throughout the interviews. Civil servants were also keen to ensure that such issues were no longer headline issues. The dual effect of the issue no longer being prominent in the public domain meant that there was possibly less hysteria and negative media focus on the issue, but it was also increasingly difficult to make such ‘social’ problems become ‘public’ ones (Gusfield, 1981). Sustaining the

focus and keeping the spotlight on the issues also presented a particular challenge during the period of economic recession.

The elected representatives also spoke in relation to their own roles as advocates and how in some cases this may have changed slightly due to their shift from opposition to Government party. One representative described it in terms of:

*We're slightly like advocates ourselves, we advocate our own policy, try and get the Minister to listen, you know? So you have the advocacy groups, they are advocating us to change our minds and then we change...it's a strange set up.*

This demonstrated the complexities within the 'politics stream' whereby outside interest groups lobbied Government TDs and Senators in relation to opposing Government policy and such backbencher politicians in turn lobbied the relevant minister. NGOs sought to put issues on the agenda, which were taken on board by sympathetic politicians with access to decision makers. Very often NGOs did not have direct access to ministers and used other politicians to channel their issues. It was also observed that the message portrayed by NGOs and in turn raised by politicians (e.g. in Dáil debates and Oireachtas Committee meetings) was in some cases altered and somewhat diluted. Politicians (particularly from Government parties) also acted strategically and used language that was somewhat less confrontational and in many cases tended to ask questions (e.g. through Parliamentary Questions), rather than make open demands in the Dáil. Some opposition party left-winged TDs (such as Sinn Féin) were more vocal in their opposition and direct criticism of Government policy.

Another senator commented on the important role that NGO groups play in terms of:

*Providing a voice for people and channelling reports and experiences of asylum seekers in DP, they are hugely important because a lot of the asylum seekers themselves didn't have the capacity or the means of communicating directly with policy makers so you need a conduit.*

When asked about the role of research reports of NGOs and their impact on Government policy, she replied that it depends very much on the public impact and the level of media attention they receive, which means that they 'gather less dust'. This viewpoint was corroborated by civil servants who also spoke about issues that became headline concerns were often taken more seriously by Ministers, who did not like to receive too much negative media attention.

### 7.5.3 *Civil servants from the RIA*

The civil servants that appeared to have the most difficult and more conflictual relationships with NGOS were within the RIA, mainly due to the fact that many NGOs directly criticised and advocated against the policy of Direct Provision, which is central to the existence of the RIA. The interviews with the former and current officials from the RIA indicated a certain tolerance of NGOs and a respect for their right to disagree with Government policy, but also a frustration that their fundamental wish appeared to be to ‘abolish Direct Provision rather than making it work’. The RIA representative indicated that they did not disagree with everything the NGOs argued and that whilst Direct Provision may not be the most ideal system for families, there were other arguments to take into consideration. These included the actions of individuals themselves (i.e. by exploring other legal avenues after first instance refusals), which meant that they spent long periods of time in the system, economic arguments (such as the Value for Money Review, which indicated that the current system was the most cost-effective) and the avoidance of further pull factors. The representative referred to some people working in NGOs or advocating for rights of asylum seekers in a particular way when she said:

*The 1999 right to work was quite limited. It applied to people who only came in a certain period of time and not thereafter. That was not advertised as such by **people whose interest it is to bring in people to the country** (my emphasis added).*

This reference to ‘people whose interest it is to bring in people to the country’ represents a clear paradigm conflict between the views of some State actors and advocates. This statement implies a state policy goal of keeping certain people out of the country, whereas NGOs are perceived as having goals that are in direct opposition to those of the State. Such a viewpoint could be analysed under theories of a racially motivated state and one, which racialises particular categories of migrants, particularly those that are non-labour migrants or from ethnic backgrounds and nationalities considered to be different (Goldberg, 2002, Lentin, 2007). Within such a framework, the perception of organisations advocating for improved rights and entitlements for particular migrants and their perceived unwillingness to recognise the right of the State to control its borders becomes problematic. It is therefore understandable that such advocacy becomes difficult and conflictual and the different viewpoints can become irreconcilable. Even incremental advocacy seeking to achieve minor policy change becomes difficult when understandings and goals appear so radically different (Cambridge and Williams, 2004).



Agenda setting for NGOs in such an atmosphere can be challenging and the deliberate moves away from the RIA and emphasis on politicians (who initially appear more sympathetic) may be based on previous negative experiences and a sentiment of not being listened to.

The RIA representative however showed a willingness to engage with NGOs and was aware of the decision of many of them to concentrate their efforts on lobbying politicians. She implied however during the interview that this might not be the most strategic move on the part of NGOs as the RIA operated with considerable independence in its day to day operations and the advice they gave to incoming Ministers was likely to be influential. She singled out a particular NGO as having made ‘a high level policy decision to work on a directly political level or media level to try and get the system changed as opposed to trying to make the system work’. Contrary to this viewpoint, it appeared during the interview with this particular NGO that they were making a concerted effort to build their relationship with the RIA and had not abandoned attempting to meet with them on a regular basis. The RIA representative however admitted that the previous meetings that were held regularly with two national NGOs ‘were constrained by the acceptance that the Direct Provision system is there and to make it work properly’.

The excerpt from the interview below demonstrates the assessment of the RIA representative that direct contact with the RIA would be more beneficial for NGOs. Whilst she recognised that the RIA does not make policy or articulate a particular vision, there were other benefits in collaborating directly with them as opposed to focusing mainly on politicians and the media:

*R: We do meet with groups (NGOs) on a kind of an ad hoc basis, but the formal meetings we had are no longer there and we would welcome then I've said it them in other forms. They've been at some interagency meetings and I've said it to them. And nothing has happened; I think their view in it is that it is probably a better use of their time to go directly to ministers.*

*I: They have said?*

*R: Yes, they have said - I'm assuming that they probably found it more beneficial to go directly to ministers or the media. They are directly cultivating media contacts, which is fine. Again I'd go back to the principle point about policy. I'm not telling people I'm going to illustrate a vision – my job is to run it.*

*I: Do you think i they would be more effective if they collaborated more with you?*

*R: I think so, I think you may hit lucky and you may get lucky and find a minster who says I'm going to meet with you and abolish Direct Provision. Happy days, but my experience of these things is that it's unlikely to happen and you're probably better off having meetings and even from the point of view of the NGOs, even if they weren't particularly successful in getting what they want, at least the position where you get the up to date position on things directly from the horse's mouth so to speak, we don't tell lies, we don't misinform people, so even if it's something you don't want to hear at least you'll hear the truth and the up to date information. It's a matter for them. They are private agencies and they can do whatever they want.*

*I: So, if they wanted to reinstate these quarterly meetings, you'd be happy?*

*R: Yes, of course but so far they're not keen on that.*

Whilst it was clear that the RIA representative was generally amenable to meeting with NGOs and believed it was also in their interest to hold regular meetings with the RIA, the fundamental issue of disagreement with Direct Provision policy emerged as a continuing barrier. The representative respected the right of NGOs to disagree profoundly with Direct Provision policy but felt that 'from a practical point of view, you swallow your pride and you meet with people implementing that policy and then separately seek at a political level to have that changed.' She continued that she was open to meeting with anybody, but how this was constrained as:

*'I'm operating within a policy structure, now we're not blind, we're not automotons. Plainly if there's something going wrong here, we have responsibility over that. But the Direct Provision system is government policy. And there's no way in the world I can say to you or an NGO group isn't that policy terrible, it should be changed. I would be fired and I should be fired. But within that policy if you were perfectly amenable to having it run properly, run it as best we can but in terms of the actual policy itself, that will have to remain at bay.'*

This demonstrated the challenge of working directly with those with the most expertise and knowledge of the operation of the system, which civil servants working within RIA clearly held. On the one hand such civil servants provided access to the most up to date and accurate information about the working of the system as opposed to politicians who were less specialised and less concerned with micro policy implementation. On the other hand however, such civil servants clearly expressed the view that they neither made policy nor were in a position to criticise it. They have been given considerable autonomy in implementing and shaping such policy, but claim not to be able to change it or to raise

the issue in relation to the policy itself. During the interviews and from transcript of the Joint Committee Meeting on Health and Children however, it also became evident that such senior civil servants had considerable sway and were in a much stronger position to influence the relevant Minister than other outside interest groups such as NGOs. The RIA is clearly within the policy network relating to Direct Provision and guards this policy carefully, both in terms of ensuring that it does not enter into discussions that directly criticises this policy (with outside interest groups) and secondly by convincing Ministers and other elected representatives that such a policy is the preferred and most cost-effective policy option. Their agency is thus not to be underestimated and they display clear preferences in favour of such a policy.

#### **7.5.4 Other civil/public servants**

Most of the other civil/public servants<sup>37</sup> interviewed were sympathetic towards the viewpoints of NGOs and appreciated and understood their commitment to their cause. Officials interviewed within the HSE generally appeared to have a good working relationship with NGOs and collaborated on a number of projects. Some were in admiration of their work and one commented on how NGOs were in a better position to protect and lobby directly, which civil and public servants were generally precluded from doing. They were however generally slightly reticent to provide direct comments on their assessment of the effectiveness of such advocacy. Most felt however that NGO advocacy, whilst shining the spotlight on certain issues had not fundamentally altered government policy. One civil servant provided a frank assessment of their influence on national policy as negligible for the following reasons:

*There's no desire to make Ireland attractive for asylum seekers, so there's no desire in relation to that so in that context very little has changed over the years, in terms of the whole regime. I think that NGOs haven't achieved success, I may be wrong in this, over the last ten or twelve years they may be able to point to a lot of successes but the bottom line is that the system has largely remained the same for the last ten or twelve years. From what I see many of the issues that emerge in terms of the critiques of Direct Provision in terms of it's an inappropriate setting for children and families, in terms of mental health issues, the living conditions, the fact that all these issues, none of those have really shifted in that time. Now maybe in local settings they've been ameliorated to some extent or addressed, but the overall system hasn't changed hugely despite a fair bit of criticism.*

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<sup>37</sup> The term 'civil servant' is generally used here, although both public and civil servants participated. No distinction is made in order to preserve confidentiality.

Another civil servant, whilst sympathising broadly with what NGOs were trying to achieve, also admitted that ‘if NGOs were a bit more measured and less confrontational in their approach, they might get a bit further. I think sometimes that they are a bit too, maybe passionate and they are then unable to see the other side.’ Their approach was seen to differ from that of public sector agencies who sought to raise issues of concern in a co-operative and understanding manner in an atmosphere of mutual respect. This theme also resonated strongly in the findings of the Advocacy Initiative and other studies, in which the lack of mutual understanding and respect and between advocates and civil servants was seen to hinder effective advocacy (Keenan and Montague, 2010, Onyx et al., 2010).

### **7.5.5 Observers/Funders**

The perspectives of observers who had worked as researchers/consultants in the advocacy sphere and funding or philanthropic organisations were particularly useful as they possibly provided a more neutral outside perspective and appeared to have good understandings of both the policy process with all its intricacies and the workings of NGOs and their advocacy attempts. Some of these observations are further elaborated on in the discussion in Chapter Eight.

Whilst some disagreements existed among this group on the actual effectiveness of NGOs in this field achieving their aims, there was a general recognition that a spotlight has been shone on issues, which otherwise would have largely been forgotten about. This group also spoke about issues of representativeness, constituencies and their role as a ‘voice’ for asylum seekers who may have found it difficult to form organised groups to advocate for their own cause. Such issues were not raised to the same extent in other interviews. One observer explained how NGOs have succeeded in creating:

*...an evidence base for what’s actually happening, good and bad, they’ve been a voice for migrants in the country where migrants either couldn’t care less about the political situation, were just trying to get on with their lives or didn’t understand how to navigate the bureaucratic systems that were out there.*

She also went on to explain how their strategies have become more sophisticated over the years and specific areas of expertise such as strong legal expertise in certain organisations was emerging as a dominant positive trend. Observers had noticed a shift from

community development type work towards a focus instead on strategic legal issues and one organisation in particular has an indemnified legal unit. It was also noted that such new legal focus offered a 'language that civil servants and the State understand much better' (participant, observer). Some NGOs were also observed to be placing a greater focus on solutions that were economically advantageous in addition to upholding the rights of the individual and thus well timed within the current emphasis of fiscal tightness.

Another observer also noted this change of focus towards more legalistic arguments, but did not only perceive it as a positive development. She reflected that the arguments often involve:

*...fairly complex discussions around some minor point in law that sometimes you get the impression that this is an intellectual exercise, people have an interest in some fairly - what seems to be a minor detail in the law or drilling into something to the nth degree when in fact there are people still living in Direct Provision. Has the focus always been on what has been the most negative experiences of migrants or is it on what lawyers or academics think is the most interesting argument? That's one area that has occurred to me more than once.*

This observer also offered some critical reflections on the role of the migrant advocacy sector as a whole and how they need to be more forceful, determined, collaborative, business like and should become 'a force to be grappled with'. The need for public support behind their arguments was also identified as crucial and how the broader public had not received sufficient information on the conditions of children living in Direct Provision.

One other observation worth noting made by this group was the importance of strategic timing of advocacy and creating the right window of opportunity and preparing for the next window if the timing is not right. In the current climate that translated at:

*At the moment we have a queue of pieces of legislation that are going through that are all dealing with the banking system and the economic crisis. Somewhere in that queue is the referendum on children's rights and the IRP bill down the line. So the timing mightn't be right for the IRP bill right now but groups can be working on these other areas.*

### **7.5.6 Discussion**

The perceptions held by this broad group of policy makers and observers on the role and influence of NGO advocacy in this field varied greatly according to their own particular position (structure), policy goals and personal preferences ('t Hart, 2010). The confines of the structures of policy making processes and roles assigned within them, possibly limited the capacity of particular policy actors to play a role other than that assigned to them, or to voice opinions (particularly within an interview context) that vary greatly from that which is expected of them. Whilst some theories such as intentionalism prioritise the role of agency and downplays that of structure (Marsh, 2010); in this case what can be observed is a situation in which structures and institutions, which are structured by a set of rules, do in fact matter. The ways in which the institution and structures and regulations associated with the Department of Justice manifest themselves are important. The Department of Justice, long associated with systems of justice, prisons and forms of containment (now extended to the immigration sphere) currently controls and operates the system of the reception of asylum seekers in addition to many legal aspects of the asylum process. The HSE, the Department of Health and other departments charged with social and community issues have by their nature a different remit. Policy goals sometimes clash. The operational of different structures infused with particular ideas can form a particular 'culture' within an agency or Government Department that can make them more or less receptive to outside interest groups with competing claims. The structures created within the RIA and the firm insistence that the core of the Direct Provision policy is not a discussion item and cannot be put on the agenda has created a barrier for effective NGO advocacy or co-operation with the agency. On the other hand, NGOs may also fail to fully understand the confines under which officials in the RIA are working and to find ways to mediate these structures and find more collaborative approaches.

The agency of actors was however still important, and there was some evidence to suggest that agencies such as the RIA may be more amenable to co-operation and discussion if slightly less oppositional poses were taken. Certain subjects were considered off limits, but otherwise discussion could take place within a particular framework. Officials from other Departments showed more empathy and understanding for the advocacy attempts of NGOs, but were also in the slightly more comfortable position of knowing that much of the advocacy work was not aimed directly at them and in a sense

there was some united opposition between NGOs and some public/civil servants against the workings and the policies of the Department of Justice. These public servants however were also acutely aware of their own role as custodians of Government policy, albeit different and sometimes conflicting policies. Their agency in interpreting and mediating such policies was important (Lipsky, 2010); and within their particular agencies or bureaucracies, they also sought to form coalitions with like-minded individuals who shared similar ideas (Sabatier, 1988). The formation and operation of particular policy networks reflected contextual factors, with obvious factors such as the politics of immigration control (and fear of public backlash or further pull factors if it were relaxed) being central to policy formation and operation within the broader context of the Department of Justice and State control mechanisms. Opening such networks to outside interest groups, which in some ways were seen to represent the exact opposite of the spectrum was very challenging, and current structures and the interpretation of institutional rules prevented it. A more complete assessment of the role of agency of actors within such Government agencies was beyond the realm of this study, but could be interesting to determine whether such strong defence of particular Government policies (even under new Ministerial direction) existed due to reasons of culture within the agency, personal preferences and opinions of key actors or whether it was largely determined by structural factors.

The perception overall of this broad group on the influence of NGO advocacy relating to the reception conditions asylum seeking children and families was that it had achieved some benefits. These included factors such as shining a spotlight on certain issues, acting as a voice for asylum seekers, development of professionalism and legal expertise (although this was also perceived as a negative aspect as it strayed from the human dimension). Politicians generally welcomed the opportunity to be informed and to have expert information and research available to them, to be digested quickly. Within the RIA, their right to exist and challenge Government policy was recognised, but their aims were perceived as too alien to allow for real compromise. The role of the media and public opinion was also highlighted by this group and whilst NGOs sometimes used it to highlight particular issues, civil servants and Government party politicians were more likely to concentrate on ensuring that certain issues stayed out of the media.

Overall it could be concluded from the observations of this group that NGOs have had some influence in terms of putting certain items on the agenda and opening up some forms of dialogue and discussion on a topic that was otherwise no longer topical. There was no clear agreement that they had a clear or observational influence on Government policy making. Many felt that their approaches possibly needed to be more collaborative, with proof of greater public support where feasible, and an improved portrayal of convincing economic arguments. Building and upholding relationships as observed in many similar studies emerged as central (Keenan, 2008, Casey et al., 2010b, Onyx et al., 2010, Keenan and Montague, 2010).

## **7.6 Chapter Conclusions**

Advocates are attempting to influence a policy arena that is complex, fraught and difficult to penetrate. A series of successive Ministers for Justice have continued on the policy of Direct Provision, largely unchanged since its introduction in 2001. It has been tightened and streamlined during this period. Despite considerable protest from domestic NGOs and some international human rights bodies, the policy has been largely untouched and the essence of the policy itself has not been widely debated in official policy circles. The various consequences of Direct Provision, particularly for children and families and the manner in which it has been implemented have been debated in various policy fora, but often in situations without an official mandate to question the policy itself. Interestingly many of these discussions have taken place outside the direct remit of the Department of Justice, such as the Oireachtas Committee on Health and Children, which does not have a policy function *vis-à-vis* the Department of Justice. It could also be concluded that the nature of the consequences of such reception policies are closer to the policy areas of other Government agencies such as the HSE. Officials within agencies such as the HSE are aware of not stepping outside their organisational remit, yet some find ways to raise their concerns and lend support to NGOs who advocate for change. Such individuals may be isolated within large bureaucracies and there is no large scale institutional will in an agency such as the HSE to directly confront the policies of another Government department.

The policy community in which decisions relating to reception policies are made is relatively tight, and ultimately the Minister for Justice makes key decisions in conjunction with the Taoiseach and other members of the Government Cabinet. The day to day



operation of the policy is controlled tightly and proudly by the RIA, who implements and interprets the policy with considerable autonomy and limited outside influence. In their role as civil servants, they also ensure that they are protected from entering into policy discussions directly related to the policy itself. Outside NGOs do not form part of this policy community and in a few instances looser based policy networks (Marsh and Smith, 2000) have been formed that have included *inter alia* NGOs. Such networks have however, been influenced by, and replicate the wider operational environment. This has included conflict relating to the opposition to Direct Provision on the one hand by some NGOs, and a refusal to accept this position or to enter into such discussions by officials within the RIA.

Despite such constraints, NGOs have succeeded in putting certain items of concern on the policy agenda and in widening their support base. Whilst initially they focused more on civil servants within the Department of Justice (where they increasingly found lower levels of support), their tactics have changed somewhat. Many organisations now appear to be concentrating on working at a political level and seeking support rather than confrontation. Through such means, they have broadened their support base and attempted to get others (elected representatives) to raise the same issues through the decision-making fora to which they in turn have access. Advocates attempt to have the issue defined as a problem on the public agenda. Kingdon notes that ‘demonstrating that there is indeed a problem to which one’s solution can be attached is a very real preoccupation in the policy process’ (1995, p93), which is what NGOs attempt to do. Notwithstanding such attempts, two principal barriers remain: Firstly, they are not partners in the policy process and their inclusion in some networks remains relatively marginal. Secondly, the attempts by NGOs to sufficiently define the issue as problematic and to convince others so have not been sufficient to elevate the issue sufficiently to warrant a full-scale policy debate. It remains to be seen however what will be the focus of the debate of the new IRP Bill and whether the Direct Provision system *per se* will be reviewed or whether the focus will mainly be on reducing the length of time spent in it.

Whilst the essence of the policy has not changed, nor has a wide-scale debate on it taken place, policy makers in various guises have become more aware and attuned to issues of Direct Provision and its impact on families and children. The Joint Oireachtas Committee meeting was a clear example of how NGOs worked with sympathetic elected representatives to bring issues associated with the policy to the attention of a wider policy

network and to adhere some pressure on civil servants responsible for its implementation. Feedback on policy implementation can lead to awareness of problems, but difficulties also exist in relation to problem definition and the classification of issues as problems (Kingdon, 1995). Ideas and values also play a role and whilst any element of human suffering may be problematic for some, by others it may be considered a necessary side-effect of a policy aimed at deterring future asylum seekers.

It can therefore be concluded that NGOs have had some successes in influencing the agenda setting phase of policy making and in raising awareness among certain policy makers about their perceived 'problem'. Whether such awareness-raising of issues has translated into policy change is not yet evident and many barriers continue to exist. The next chapter discusses these issues in relation to the literature on agenda setting, issue emergence and the role of advocacy. This is done within a revised framework of agenda setting and its intersection with advocacy, based on a multiple streams model and incorporating other theoretical perspectives.

## **Chapter Eight:**

### **Advocacy and Influencing the Public Agenda - Discussion and Conclusions**

#### **8.1 Introduction**

The system of accommodating children and families in Direct Provision communal hostels has been in operation for over twelve years, with some families residing there for periods of seven years or more. For children who were born in Ireland or who arrived at a very young age, it may be the only life they know or can remember. Others who arrived when they were older may have memories of a different type of life or may still be coming to terms with trauma they experienced pre- and post flight. Advocates and others claim that the system known as Direct Provision was introduced as an emergency response to a situation that was considered untenable by the Irish Government at the time and was not subject to rigorous debate or statutory backing at the time of its introduction (FLAC, 2003, NASC, 2012, Thornton, 2007).

Advocacy in relation to the reception conditions of parents and children in the asylum-seeking process has existed for over twelve years. Many of the campaigns focused on the reform of the overall policy of Direct Provision, which advocates argue was introduced as an emergency measure, without adequate debate or within a clear statutory framework. Children who do not arrive with their families and are considered separated asylum seeking children have always been accommodation under a different process. During the period 2002 to 2009, advocates and others expressed considerable concern about their accommodation in unsuitable and sometimes unsupervised hostel accommodation. The situation for separated children was improved as a result of a series of interventions. For children and families living in Direct Provision however, the concerns have never been as public or perceived as urgent and whilst many of the concerns are of a very serious nature, there have not been particular incidents that have drawn widespread public and media support. The Irish Refugee Council have argued recently in a postcard campaign on children living in Direct Provision that they are Ireland's 'invisible children' and they emphasise that they are not 'forgotten' as they were never visible in the public domain (Irish Refugee Council, 2012b). It is evident from the analysis of such advocacy that it is not a mainstream issue that is likely to garner widespread public support, with one

politician indicating that demonstrating public support for asylum seeker issues has attracted a racist backlash from constituents.<sup>38</sup> One NGO also spoke about how they operate within a ‘bubble’ of sympathetic people, but were confronted with the negative realities of public opinion when exposed on an interactive radio talk show.

Such advocacy is therefore challenging and largely outside the mainstream public domain. It is concerned with opposing or seeking to reform State policies that seek to exclude certain immigrants and ensure that their lives are made sufficiently difficult in order to deter others. Funding is very limited and during the course of the study, two NGO participant organisations were forced to close due to financial constraints. Despite such huge challenges, advocacy organisations or sections within organisations continue to operate, with some having spent twelve years advocating in relation to what they perceive as the inhumane conditions of the Direct Provision system and its negative impact on children and families. The Irish Refugee Council has recently launched a renewed widespread national campaign on highlighting the impact of Direct Provision on children, with various aspects being highlighted in a series of regional events (Irish Refugee Council, 2012a). The referendum on children’s rights passed in November 2012 raised national consciousness in relation to children’s rights, but the notion of immigrant children’s rights was largely absent from the public debate.

This study has sought to understand this process, particularly focusing on how advocates attempt to put their concerns on the public agenda, including the response they receive from the State. This was done through a lens of agenda setting (Kingdon, 1995) at the meso- level, informed by other theoretical perspectives. Particular episodes in which state and NGO advocacy interacted were explored deeper as small case studies of the intersection between such advocacy and the early stage policy making process. Chapter Five addressed the strategies advocates view as effective, with Chapter Six examining such advocacy in greater detail, including how it has evolved over time and the various nuances and dichotomies emerging. Chapter Seven focused more on the process of policy making and focused on how the State has reacted to such advocacy, with examples given of key episodes in which advocates and policy makers interacted, indicating their attempts to influence the public agenda.

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<sup>38</sup> This comment was made by a TD who spoke at an event where two reports on Direct Provision were launched in NUI Galway. See <http://www.childandfamilyresearch.ie/launch-direct-provision-reports-nui-galway>.

This chapter attempts to provide a summary relating to the central question and concludes that NGOs do play a role in raising issues of concern relating to asylum seeking children and families in the Direct Provision system. They have had some limited success in placing their concerns on the public agenda, but do not necessarily control the item once placed on the agenda. Windows of opportunity are short-lived, and the fast pace of politics coupled with competing multiple interests, limits the amount of detailed consideration they are available to give to any one issue. Concerns not in newspaper headlines or dominant in the public mood do not grab their attention in the same way. Politicians who demonstrated a passion for reform in this area were in a very small minority, but did offer considerable support and hope to advocates, even if it just meant a sympathetic ear. Through such advocacy NGOs have drawn attention to issues that were not previously in the public domain, and which politicians and other policy makers were unaware of. This is akin to the process of transforming social issues into public ones (Gusfield, 1981). There have been some instances where NGO advocacy has led to particular issues appearing on the public agenda, although often not sufficient on its own to bring about widespread policy change. Other factors within the political stream have sometimes dominated. Whilst some Government actors (politicians and civil servants) have expressed some level of sympathy for the situation of asylum seekers in Direct Provision from a humanitarian angle, overall Government policy during the last decade has remained firmly against the notion of reforming the system of Direct Provision. In 2012 there has been a renewed focus on children living in Direct Provision and NGOs are pushing hard to raise such concerns, highlighting the rights of the child and pre-empting reforms that are due to occur through the revised IRP Bill.

In this chapter, the overarching research question is addressed through a discussion of the findings in conjunction with the key theoretical concepts influencing the study. The study sought to address: *How do NGOs advocate in relation to the reception conditions of asylum seeking children and families in Ireland, including how such advocacy is received at state level and how NGOs attempt to put their concerns on the government agenda?*

This chapter addresses the overarching question, within a framework of agenda setting, informed by other theoretical and empirical concepts. The multiple streams model was found to be useful in this study in seeking to understand how advocates attempt to place their concerns on the public agenda, but has been modified to provide a revised framework based on the intersection of advocacy and agenda setting. This is delineated in

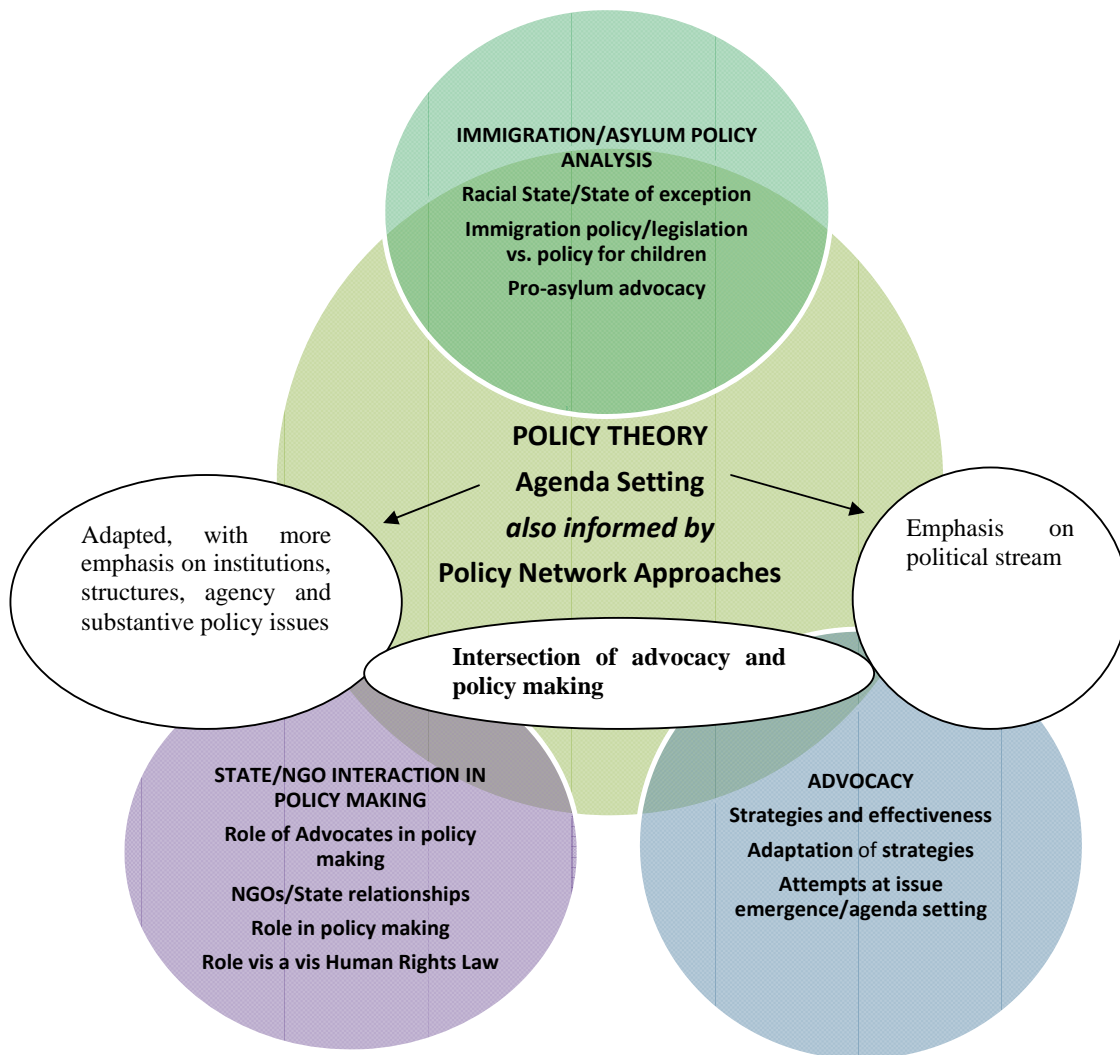
**Section 8.2**, which concludes with a revised multiple streams model that helps us to understand how advocacy and agenda setting intersect in this context and which may have relevance for future studies. **Section 8.3** then addresses the research question within this framework, with a discussion of the process of how advocates attempt to place their issues on the public agenda within each of the three streams of the revised framework. In **Section 8.4** the particular challenges of advocacy within this policy context are discussed, drawing on theories of a racial state (Goldberg, 2002, Lentin, 2007) and the state of exception (Agamben, 2005, Hintjens et al., 2011). It also looks at how legal and human rights approaches can play a role. The overall conclusions of the study are contained in **Section 8.5**, followed by implications for practice (**Section 8.6**) and concluding remarks (**Section 8.7**).

## **8.2 Adaptation of agenda setting in current study**

### **8.2.1 Overview**

The underlying theoretical concepts have been important in guiding this process. In chapter four (methodology), a framework for the integration of theoretical concepts into the research process was laid out. This has been slightly altered here to demonstrate the key concepts used in the research. The overarching concept of agenda setting is central and locates the research within a policy analysis framework. There are three other dimensions that were relevant to the study, namely advocacy, state/NGO interactions in policy making and the analysis of policy/legislative processes relating to immigration and asylum. The study took an abductive approach to theory, whereby such theories and empirical data were linked to give rise to interpretations. The study was also undertaken with a focus on the voice of the actors in the process and takes a constructionist stance in terms of highlighting their perceptions and interpretations of their actions. The multiple streams approach of agenda setting provided an important lens in the analysis. As demonstrated in the revised figure below, it was adapted to the research context and informed by concepts on advocacy and its intersection with policy making; and the challenges associated with advocacy in the asylum policy domain.

**Figure 8.2.1 Linking of theoretical concepts used in the research**



The next section outlines the manner in which agenda setting has been adapted to the current research and suggests a revised framework, using the concept of multiple streams for understanding the intersection between advocacy and agenda setting. This is then used as a lens for the remaining analysis of the central research question.

### **8.2.2 Usefulness of agenda setting in understanding how NGOs raise their concerns**

The multiple streams agenda setting model of Kingdon was adapted in this particular case to include the three streams of advocacy, advocate/policy-maker interaction and the wider context (similar to the politics stream). One of the core challenges for advocates and for policy making that includes their voice in this domain has been the sometimes irreconcilable differences in worldviews between advocates and some policy makers. Pro-

asylum advocates also encounter challenges in convincing the wider public and in transferring social problems to the public arena. In order for policy windows to open through such interactions, common understandings need to be reached, with policy makers viewing the practical benefits and relevance of such proposals. The third stream (the wider context/politics stream) is of importance, and is where politicians are more likely to be influenced and provide potential windows of opportunity. As discussed in previous chapters, such advocacy does not work solely at a political level and for many incremental changes, the agreement and willingness of civil servants to implement such changes is crucial.

The original question posed at the outset of this study focused on the role advocates have played in raising issues of concerns regarding children and families in Direct Provision accommodation and their influence on public policy agenda setting. The question was posed from an actor-oriented, constructionist perspective, focusing on the viewpoints of the actors in the process, supplemented by analysis of secondary material such as policy documents, NGO submissions, webcasts of meetings etc. Breaking policy making into distinct stages can be problematic and circular rather than linear linkages occur within the process, but it is still possible to identify a process of agenda setting, whereby actors attempt to put their issues on the public stage. This can occur throughout the cyclic process. The use of a model of agenda setting as developed by Kingdon (1995), has been categorised as a synthetic account of the policy process that attempts to bring together previous theories on institutions, networks, process, choices and ideas (John, 2003). Whilst not without its limitations, the framework of agenda setting was useful here in terms of conceptualising the various streams in the policy process in addition to understanding the random elements that occur within the wider environment. The concept of a 'policy entrepreneur' is pivotal, referring to advocates for particular proposals and can be found in or out of government, including interest groups. Their defining characteristic is however their willingness to invest various resources 'in the hope of a future return' (Kingdon, 1995, p.122). His understanding of their advocacy however differs of the understanding of advocacy used in this study, with advocates being found in a variety of positions and places, sometimes for personal gains and not necessarily associated with the community or not for profit sector. In his analogy, they may also be located within the Government itself as a politician or public servant. The concept is however, relevant here in terms of understanding the role of particular individuals or



organisations who attempt to influence policy making through agenda setting. Their characteristics include a claim to a hearing (i.e. access to relevant people who will listen to them), being known for their political connections or negotiating skills and thirdly their persistence (Kingdon, 1995, p.181). Whilst all of these terms do not necessarily feature strongly in the advocacy literature, nor by advocates themselves, they do however resonate with some of the findings in relation to the perceptions of strong advocates. In this study, strong advocates who were akin to policy entrepreneurs also had a great ability to communicate their message strategically, an element missing in Kingdon's list of characteristics. It was also found that the model suffers generally from a lack of focus on particular expertise of the policy domain of actors in the process and poor attention paid to the substantive policy issues.

Notwithstanding such constraints, an agenda setting framework has provided a focus for the analysis of data and as a useful way of supplementing the national and international literature on advocacy. An element sometimes absent from literature examining the role of advocacy is a demonstration of an in-depth understanding of policy change and tools for its analysis (Cambridge and Williams, 2004, Kimberlin, 2010, Balassiano and Chandler, 2010). In line with funding requirements, advocacy organisations now frequently require external (or internal) evaluations of their advocacy activities, with the development of some new methodologies including advocacy impact evaluation. Such tools are generally utilisation-focused, which means focusing on *the intended use of intended users* and using that as the evaluation standard (Quinn Patton, 2008, p1). Whilst such evaluation methodologies can provide some useful tools for assessing the role of advocacy, they tend to be organisation-focused, micro levels of analysis, and less concerned with the wider context and broader role of such advocacy. They also tend to place lower emphasis on the perspectives of those to whom such advocacy is targeted and their understandings of how policy is made and the role of the various actors within it. Incorporating understandings from political science on policy change is therefore useful in seeking to understand the wider context and how advocacy is often one minor element in a complex maze of actors, processes, structures and dynamics.

Kingdon's three streams focus on policy, problems and politics, with the possibility of windows opening in one stream, or due to combination of movement in various streams. This model has been adapted in the current study, leading to a model of advocacy and agenda setting, with altered streams. Rather than focusing on problems and policies in

general, this model looks specifically at (i) advocacy (similar to the activities of interest groups and some policy entrepreneurs and carries some similarities with the problems stream), (ii) policy-maker/advocate interaction and (iii) the wider context (similar to the politics stream). The combination of these three streams may give rise to a new policy window opening or offer an opportunity for agenda setting. Whilst policy change occurs for a wide variety of reasons, many of which may be not connected in any way to advocacy, this particular framework refers to situations when advocacy is central to a change in policy dynamics (opening of policy windows). Advocacy however does not occur in a vacuum and needs to be understood in conjunction with the relationship between advocacy and policy making processes or between advocates and policy makers. Secondly, the wider public mood, media and political will-power to open up the discussion are important elements and may provide backing or discouragement for policy makers.

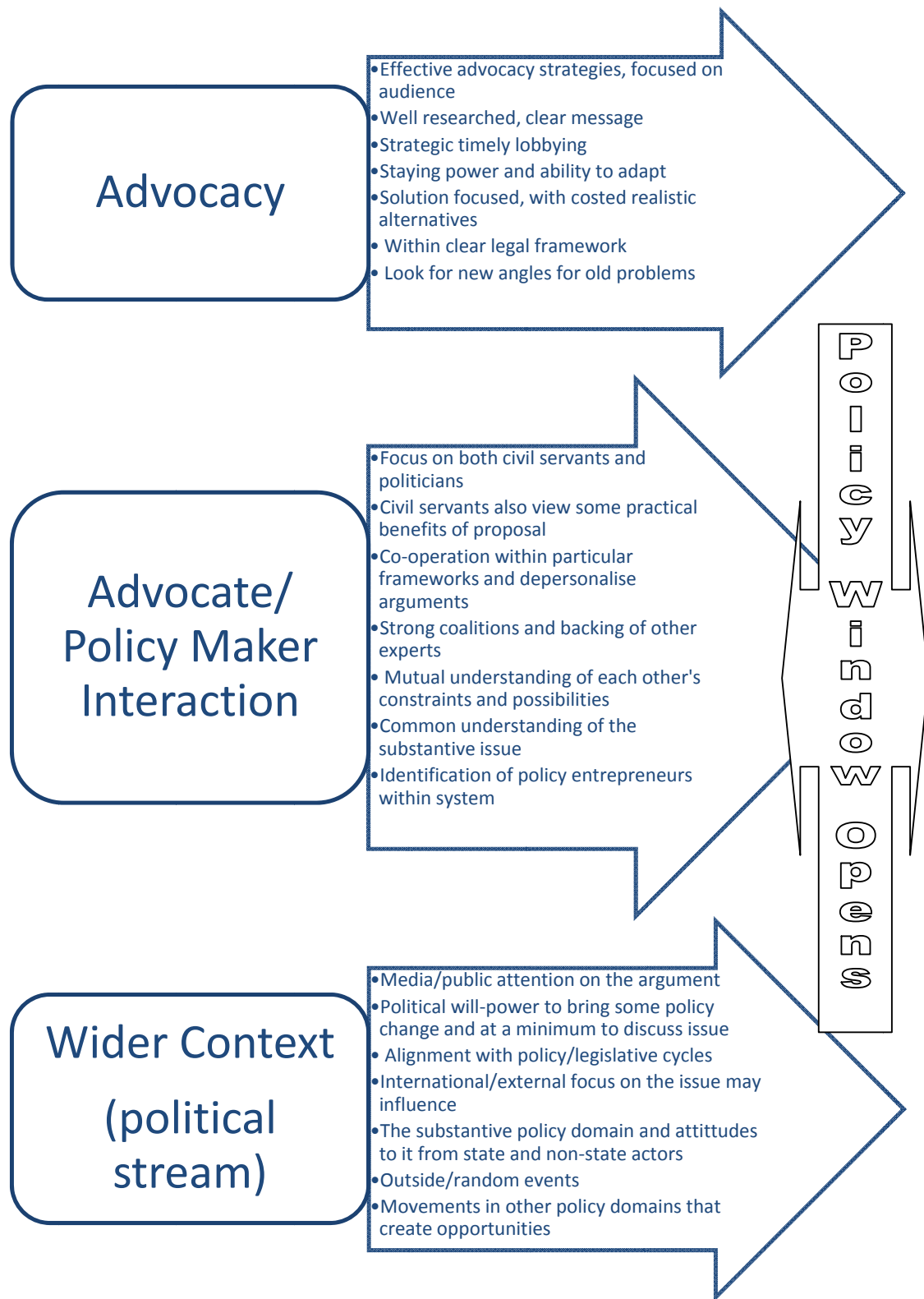
Much work on advocacy concentrates on the strategies employed by advocates and whilst they are very important, the political or wider contextual environment cannot be ignored and skilled advocates may not succeed in putting their items on the agenda if such items are not perceived to have any political relevance. Thus, more macro levels of analysis are also required, focusing on the public mood and the overall relevance of such issues. Policy windows may close as the attention cycle of the media, the public and politicians focus on other factors. This is where advocates need to 'stay in the trenches' (Berry, 2001, p5) or adapt the content and delivery of their message to the changed political environment. In some cases policy windows neither open nor close, and policy stagnation occurs. Elements of this were observed in relation to the policy on Direct Provision, with a few minor windows opening (and closing again) in examples such as the Joint Oireachtas Committee on Health and Children or some earlier interagency group structures.

The three streams are outlined in Figure 8.2.2, which is based on analysis of the research data and an adaptation of the multiple streams framework. Evidence of some policy windows opening was found, often involving movement in the three streams and the interaction between them. The first stream focuses on advocacy and advocates, their strategies and ability to mediate change in the wider environment (intersection with the third stream). They also need to understand and mediate structural boundaries and roles, with regard to institutional contexts and how they can operate. The second stream focuses

on the policy maker/advocate relationship and the dynamics within it (relational and network factors). The third is concerned with the wider environment and its disposition towards the particular policy area, including the role of public opinion, media and the general public mood (similar to Kingdon's politics stream). Politicians and political events or decision making cycles are crucial here. The third stream is often where the policy window opens, although it may be caused through a combination of movement in the other two streams. Elections, formation of new committee and structures and legislative cycles present opportunities here. Kingdon speaks of opportunities for advocates for proposals 'to attach their solutions' to problems (1995, p168) and this often occurs when an issue becomes topical and there is a search for solutions. The particular institutional context is important however, and the dynamics of movement are not as fluid as suggested in the classic agenda setting model.

Advocates in this case had hoped that the general election of 2011 would present an opportunity of change, which it did to a certain extent (e.g. through attempting to influence new TDs who appeared to know little about this policy domain), but not sufficiently to bring about widespread policy change. Such a policy window does not appear to have stayed open for long and institutional constraints (through a civil service and system that was resistant to change) may have hampered any wide-scale reform.

**Figure 8.2.2 Multiple streams framework linking of advocacy and agenda setting**



### **8.3 Multiple streams approach to placing concerns on public agenda**

#### **8.3.1 Overview**

The previous section provided an overview of how the multiple streams approach has been adapted in the current study. Here the questions of how advocates attempt to raise their concerns, focusing on the three streams and the influences of each are addressed. Whilst opportunities exist within all three, the political/context stream offers the widest possibilities for the opening of windows, combined with movement in the other two streams.

#### **8.3.2 *The Advocacy Stream: How have advocates attempted to raise their concerns?***

The sub-question of how advocates raise their concerns and why they choose particular strategies has been addressed in detail in Chapter Five. Some of the key strategies that have been shown to be effective are summarised in the Advocacy Stream in figure 8.2.2 above. Strategies and methods for raising concerns included many insider strategies and a limited number of outsider strategies (Walker, 1991) due to the perceived limited popular support for the issue. The use of coalitions is viewed in the literature as an effective vehicle for raising concerns due to the two primary reasons of demonstrating that a particular position has the support of a varied group of interests and secondly, it can allow for a more efficient use of resources (Mahoney, 2007). Advocates initially lobbied or raised concerns individually, with each organisation focusing on particular angles. As more NGOs became established and some regional or local organisations finding national advocacy difficult due to their geographical distance from the capital, coalitions began to form on various topics. The Forum on Direct Provision is the coalition of most interest here and the reasons for joining concurring with much previous work on coalitions (Mahoney, 2007, Hula, 1999), with the addition of regional groups requiring access to national policy makers.

Many advocates testified that simply putting an issue on the public agenda or on the public record is not necessarily sufficient to bring about policy change. Whilst advocates may play a role in putting their particular issue or problem on the agenda, they often quickly lose control of the issue once it becomes part of the mainstream policy making process. Advocates in this context frequently felt excluded from such processes and whilst attempts had been made on both sides in the past to establish joint working arrangements, these had frequently fallen apart or had become ineffective. Advocates

therefore sought new ways of working and often by-passed officials and concentrated more on elected representatives, who on the outside appeared to be more sympathetic to their worldview. The effectiveness of such a strategy was discussed in Chapter 6.

The literature on systemic advocacy, both internationally and in Ireland, refers frequently to the issue of managing the relationship between the advocates (often voluntary sector organisations) and the State, at whom their advocacy activities are targeted (Casey et al., 2010b, Onyx et al., 2010, Keenan, 2008, Keenan and Montague, 2010, Hodgett and Sweeney, 2009). Some authors stress the need to address a democratic deficit and represent the views of minorities and disempowered groups (Kimberlin, 2010). The role of NGOs and voluntary sector organisations is associated with both participatory and deliberative forms of democracy (Casey et al., 2010b). Whilst some broad agreement appears to exist within the literature on the need for advocacy in healthy democracies and a strong community and voluntary sector, the manner in which such groups should advocate, the nature of their relationship with the State and issues in relation to representation provoke greater debate and disagreement. The issue of representatives and communities of interest is an important one in this study as many NGOs, particularly in the immigration sphere are representing a minority group that does not necessarily have widespread resonance with the broader electorate. In this sense, the advocacy here differs to various studies on interest group influence as they are not representing a commercial or mainstream interest and their activities may be considered more marginal. This is one of the particular challenges associated with such advocacy, as discussed in the next sections.

The participants in this study also grappled with such issues and the phrase coined by Onyx et al, (2010) of ‘advocacy with gloves on’ summarises the dilemma felt by many advocates and the choices they felt to make in relation to fostering positive relationships with relevant State actors (civil servants in particular). The manner and content of their message also impacted on such relationships. In the literature this is sometimes linked to funding and the reticence of advocates to ‘bite the hand that feeds them’ (*ibid*). In the present study however, reliance on Government funding and its repercussions did not arise as a very pertinent issue, possibly due to the low levels of core Government funding to such organisations and a greater reliance on philanthropy and fundraising. Generally the breakdown in relationships occurred over a number of years arising from an opposition to the policy of Direct Provision by some advocates and a reticence of civil

servants in the RIA to engage with those who fundamentally disagreed with a policy of which they are custodians.

Some authors refer to the need for direct action or protest and examples from Australia of how asylum seekers and their advocates engaged in such protests led to some reforms (Gosden, 2006, Hintjens and Jarman, 2003). As the official from the RIA pointed out in this study, ministers are concerned with keeping issues out of the headlines and protest in relation to Direct Provision accommodation rarely reach the main headlines. This can be contrasted with recent budgetary ‘u-turns’ in relation to cuts for personal assistant hours after people with disabilities staged a vigil outside Government buildings and drew widespread media attention (Cullen and Wall, 2012) . Asylum seekers as a group however are more hidden, less organised and generally have not engaged in mass protest for fear of reprisals. There have been a few exceptions however and recent protests by asylum seekers in relation to the closing of a hostel in Galway led initially to a reversal of the decision, which was subsequently reversed again in favour of closing the hostel.<sup>39</sup>

Advocates for their cause are sometimes one step removed and due to restrictions on employment, asylum seekers are precluded in working in such organisations. This raises issues of representativeness and voice,<sup>40</sup> and may also have repercussions for the public and media impact of such advocacy, when the people themselves affected often do not have the opportunity tell their own stories<sup>41</sup>. It can also lead to criticism of such advocacy as lacking constituencies (Keenan and Montague, 2010). The form of organisational advocacy currently employed may be lacking in sufficient public and media impact to bring about sufficient pressure on the Government to implement major policy reversals. It is therefore unlikely that such advocacy alone will be the sole driver behind wide-scale policy change, but may combine with other forces (such as inside advocates and legal avenues) and outside events to bring about some incremental change. Advocacy does not occur in a vacuum and the stream of advocacy alone is therefore insufficient to account for policy change or for new agendas to be set. Where advocates do have success in

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<sup>39</sup> See Section 8.7 Concluding remarks for further details.

<sup>40</sup> The issue of representativeness in advocacy is a very important one, but has not been given widespread attention in this particular study. This is no reflection on its relevance, but was beyond the realm of enquiry and further research would be required to explore the issue of representativeness in pro-asylum advocacy in Ireland.

<sup>41</sup> There have been some exceptions and some NGOs ensure that asylum seekers accompany them to various meetings and have provided opportunities for them to speak in Dáil hearings.

agenda setting, it is usually in conjunction with movement in the other streams, with the political/contextual stream often offering the most windows of opportunity.

### ***8.3.3 Reconciling differences in the stream of advocate/policy maker interaction***

One of the core challenges for advocates and for policy making that includes their voice in this domain, has been the sometimes irreconcilable differences in worldviews between advocates and some policy makers, which advocates believed were most strongly felt with the Department of Justice (civil servants and some Government Ministers). Pro-asylum advocates also encounter challenges in convincing the wider public and in drawing support for an issue that has the potential for public backlash. In order for policy windows to open through such interactions, common understandings need to be reached with policy makers viewing the practical benefits and relevance of such proposals.

#### *Nurturing of relationship with the State*

A recurrent theme in the literature on advocacy is the nature of the relationship between the advocates in the community and voluntary sector and the State, with categorisations made of the type of relationship in various countries (Staples, 2007, Keenan, 2008, Casey et al., 2010b). In some countries and contexts, such relationships have been formalised and complex funding arrangements and contracts can both define and limit the role of the voluntary sector (Casey and Dalton, 2006). Some authors have warned against public choice theory influenced models of relationships with the State, where economic value may be the primary concern (Staples, 2007). The notion of formalised ‘compacts’ was also rejected in the Irish context through the Advocacy Initiative process (participant, observer). Advocates participating in the study concentrated very much on the content of their message and attempting to reach the decision makers who were perceived as most receptive to hearing such a message.

As discussed in depth in Chapters Five and Six, the targets of such advocacy changed depending on the perceived receptiveness and relationships that were considered troublesome or complex were often abandoned. The perspective of some observers and of the findings of the Advocacy Initiative report (Keenan and Montague, 2010) differed to some extent and the fostering of positive relations with key officials was perceived as more important. The Advocacy Initiative also pointed to difficulties in relation to ‘etiquette’ in dealing with officials, but also a sense by those within the voluntary sector that they were being met with a hostile reception. This dilemma was evident in this study



and particularly pertinent in relation to dealings with the RIA. These somewhat hostile relationships, evidenced from both sides appear to have stemmed from events or meetings in the past, particularly surrounding participation in the interagency group structure and defining the precise role of both sides. Whilst some advocates continued to attempt to foster such relationships, many had decided that it was too difficult and confrontational and their energies should be directed elsewhere. As shown in the previous chapters however, abandoning such relationships was not necessarily beneficial and growing hostilities between advocates and the RIA made it difficult for policy windows to open. Civil servants in this case hold considerable power and are responsible for the day to day operation of the system. They are also the ones who hold the potential to implement or not to agree to particular proposals.

The system of advocacy in Ireland in this sector is relatively informal and in the absence of concrete contracts or compacts, fostering positive personal relationships is essential, with collaboration within particular sectors, such as the children's sector noted as being particularly strong (Keenan and Montague, 2010). As discussed in Chapter Seven however, collaboration with the Department of Justice has historically been difficult and the role of the community and voluntary sector is not given the same formal recognition as in some other government departments. Whilst the content, method of communication and message of advocacy work are all very important, it would appear that it will only be more effective in such a context if officials within the RIA and the relevant advocates build more positive and constructive collaboration.

This view was held by some observers who commented on how some NGOs had managed to open up positive channels of communication, whilst also proving that they were competent and had developed relative expertise. Two observers also stated how important they felt it was to communicate effectively with both officials and politicians and that by-passing officials could have negative consequences, as they ultimately influenced the relative Minister. On the other hand, some advocates expressed how they had attempted to build up such relationships, but had been excluded and did not feel part of the relevant policy networks. The absence of firm structures or guidelines for collaboration mean that invitation to participate depends on the goodwill of particular individuals and whilst the right of NGOs to exist is recognised, they are not necessarily viewed by state officials as partners with whom there is a need to co-operate. Advocacy in such a context can quickly become adversarial and whilst some authors internationally

recognise the need for advocacy to be more adversarial and less cautious (Onyx et al., 2010), the corollary can also be that the content of the message may be lost if some form of co-operation and a willingness by both sides to communicate is not established. NGOs working within the children's sector and more specifically with the Department of Children and Youth Affairs spoke of more collaborative relationships that appeared to be mutually beneficial for both sides. The State broadly promotes and supports 'active citizenship' (Active Citizenship Office, 2008) and the role of the community and voluntary sector (Government of Ireland, 2000), but has been criticised for demanding increased rationalisation and 'a lack of a visionary expression of such voluntary activity' (Keenan, 2008, p.33), including advocacy. Philanthropy has been encouraged by the Government, much of which has concentrated on organisations with a strategic and advocacy related purpose.

As observed in this study and other studies on advocacy (Keenan and Montague, 2010, Hodgett and Sweeney, 2009), the State response to advocacy has not been clarified and messages portrayed both in official discourse and in individual communication can be confusing and contradictory. Given Ireland's relatively clientelist political system and the nature of being a small island nation, personal relationships are crucial and advocates frequently seek key individuals who portray empathy, which may not necessarily result in favourable outcomes or an ability on the part of that individual to bring about change.

#### ***8.3.4 The wider context and the challenges of influencing asylum policy***

The third stream (the wider context/political stream) is where policy windows are most likely to open, but is also where advocates have encountered considerable challenges. Whilst effective advocacy strategies and positive relationships with Government are crucial, policy change or new windows of opportunity generally occur through openings in the political/contextual stream. This includes the national mood or a general move of public support towards an issue. An example includes the public reactions to various reports in Ireland documenting institutional and church child abuse, which led to a renewed focus on the protection of children. The Ryan Implementation Plan following the Ryan report (OMYCA, 2009) then provided an opportunity for Government to make a recommendation to close the hostel accommodation for separated children seeking asylum. It may have been unlikely that the report on its own would have brought about such a change. The opportunity combined with persistent advocacy by NGOs working individually and in coalitions, in addition to an intervention by the Ombudsman for

Children gave rise to policy reform. The window of opportunity thus took place in the politics/context stream, but various policy entrepreneurs had worked persistently in other streams to raise the issue.

The political and legislative contexts and decision making cycles are also very important and advocates and policy makers testified that some reform of overall asylum and immigration policy and legislation is likely through the proposed IRP Bill. The considerable delays in introducing it have caused some frustration for advocates who find it difficult to identify new windows of opportunity in the absence of any official debate.

As discussed earlier, difficulties may have arisen in relationships between advocates and the Department of Justice, partly due to diametrically held views of how the State should treat those attempting to seek asylum. This divergence resonated strongly throughout the research and whilst policy makers are not one homogenous group, some officials within the Department of Justice, previous ministers for Justice and some other politicians tended to hold onto a view of containment, control and a strong need to protect Ireland's borders, with the recognition of protection needs and a humanitarian system taking a much lower priority. NGOs on the other hand generally viewed asylum seekers as deserving human beings, entitled to the full enjoyment of human rights and a sense of dignity. Internationally there has been a recognition that NGOs in this sphere are traditionally seen as having a role in service delivery and not as 'intellectual partners' (Lester, 2005). There is also a recognition of the precarious nature of advocacy that is viewed as 'pro-asylum' and how it can be in strong opposition to mainstream government policies (Fekete, 2009, Hintjens et al., 2011). Public support may be much lower than for other forms of advocacy (Hintjens et al., 2011, Bhabha, 2002) and politicians may be reluctant to openly support migration related causes (Integration Centre, 2012).

Many of the advocates who participated in the study, particularly in the immigration sector stated how their long-term goal centred on the eradication of Direct Provision policy or at the minimum that it should be restricted to a maximum period of six months. Some civil servants and politicians held sympathy for this viewpoint, but it was strongly contested in the Department of Justice, confirmed both in the research interviews and various official documents or transcripts of meetings. Officials within the Department of Justice made frequent reference to their role as custodians of Government policy and not as those who made policy (Oireachtas Joint Committee on Health and Children, 2010b).

As discussed in Chapter Six, these often diametrically opposed views formed a major barrier to the development of meaningful co-operation between some advocates and officials within the RIA. The issue of structure and agency arises here, leading to the question of whether State structures and control mechanisms by their nature exclude those with differing views on how the State should treat asylum seekers or whether the agency of particular individuals both on the State and the NGO side has given rise to a situation where disagreement and tension has arisen. It would appear that both influence outcomes, concurring with the hypotheses developed by Marsh and Smith (2000) that the dialectical relationship between them is influential. Policy networks in relation to Direct Provision exist and they do matter. Officials within the RIA have been involved in establishing structures at national and local/regional levels that determine the manner in which such policy is to be implemented, the relative success of which determines the continuation of such policy. Officials from the RIA confirmed how they have little ministerial influence on the day to running of their policy and they try to ensure that it is implemented smoothly in a way that is relatively cost-efficient and not giving rise to frequent headline articles, thus ensuring that it stays out of the politics stream.

One of the observers interviewed referred to the changes in Ministers for Justice and the brief period in which there was a Minister for Integration as a ‘changing of the guard’, but that the real permanence stemmed from the civil servants, not just within the RIA but within the Department of Justice as a whole. The way in which structures within the Department of Justice have been established has meant that the RIA is relatively independent and its director and officials enjoy a certain degree of autonomy. Their agency has also ensured that such privileges are maintained and whilst they have established some interagency groups that originally involved a variety of non-governmental actors, these were quickly altered once meetings were perceived as uncomfortable and many NGOs considered to be ‘vocal’ were excluded from the process. This resonates in Marsh and Smith’s work on networks, as they conclude that:

*Rules of the game within the network constrain who is included and how they act. They limit types of behavior that are unacceptable. By defining the type of behavior that is acceptable, they are again privileging certain alternative outcomes. Those who do not abide by the rules are likely to be excluded. (2000, p6)*

Such acts demonstrate how the powerful actors within such policy networks can mediate the effects of outside events and ensure that those with opposing views are not entitled to

participate. The structures were thus changed slightly to minimise the influence of NGOs with differing opinions who wished to attempt to influence policy formulation and implementation. The reference Marsh and Rhodes (1992) make to the common culture or shared world view within a policy network is important in this context, where a clash of world views effectively caused a breakdown or radical change to the structures of the interagency group structure. The point made by the RIA official about statutory bodies not being comfortable in the presence of certain NGOs reflects this position, whereby those with a different world view were excluded from the process.

Ideologies and their impact cannot be ignored here and the wider context plays a role, whereby broader state goals of control of borders and immigration and avoiding a ‘pull factor’ may be stronger among some state officials than the humanitarian goals and concerns held by those working with NGOs. The State/non State dichotomy is also important and state actors sometimes express frustration with NGOs who appear not to understand the realities of policy making and the various fiscal and political concerns associated with governing a country where multiple interests compete (research interviews, Keenan 2008). Views surrounding models of democracy may also differ and tensions arise between those leaning towards more representative or participatory forms. Advocacy and civic-state interactions in post Celtic-tiger Ireland are under-going transformation; some authors have pointed to an increasing service provision model, whereby complex funding arrangements and ‘non-adversarial partnerships’ are fostered, leading to a reduction in activism and adversarial advocacy (Harvey, 2009a). Handmaker’s work on civic-state interactions in refugee advocacy in South Africa also offers a useful insight into understanding the structural boundaries between the state and non-state actors, which may not be understood by actors in the process (Handmaker, 2009). Mutual understandings of the wishes, constraints, structures and processes that defined each other’s ways of working were sometimes limited, thus leading to some tension and frustration. The institutional context is thus important and limited understanding of institutional constraints can hamper effective co-operation.

### **8.3.5 Conclusions**

Advocates who challenge asylum policy are challenging a state that seeks to exclude and expects that asylum seekers living in isolated Direct Provision centres should remain invisible. Asylum seekers are disenfranchised and marginalised in many ways, with advocates seeking to shine a spotlight on the conditions they live in. Such advocates are

challenging a state of exception (Hintjens et al., 2011) and encounter significant difficulties in finding co-operative means of raising their concerns and seeking wide-scale policy reform. They struggle between seeking incremental or more realistic change and focusing on the bigger picture, with some minor tensions evident between various NGOs who favour one approach over another. Advocacy is not an isolated process and advocates are just one of a myriad of actors in a complex policy process. Whilst they perceive they have a role to play in such a process and express a desire to influence agenda setting, their role is marginalised and they do not form a part of formalised policy communities, with a few privileged NGOs operating on the fringes of some policy networks. Windows of opportunity for policy change are rare, but advocates occasionally find opportunities to put their concerns on the agenda, when effective advocacy and working strategically with the right targets occur in conjunction with opportunities presented in the political/context stream. One clear example was the Oireachtas Committee on Health and Children whereby the interest of some committee members in particular hostel conditions at a local level, combined with persistent advocacy over an extended period gave rise to an opportunity for NGOs to have such concerns raised before an Oireachtas Committee meeting. Here, challenging questions were put to civil servants in charge of policy implementation. The General Election of 2011 also provided an opportunity for NGOs to address new TDs and Senators in order to increase general awareness.

## **8.4 Understanding the particular challenges of pro-asylum advocacy**

### **8.4.1 Overview**

Whilst tensions in advocacy relationships and the role of both sides in civic-state interactions have been well documented (Adshead et al., 2008, Keenan, 2008, Harvey, 2008, Ó Broin and Kirby, 2009), advocacy in this particular context appears to have an added dimension attached to it that has resulted in relationships being fraught and viewpoints often difficult to reconcile. There is a temptation to attribute such particularities to the ideological context and the racial aspects of policy making in this arena. Some analysts of such policies in Ireland have explained these dynamics through theories of the racial state' as developed by Goldberg (2002). In a recent book on migrant activism, Lentin suggests 'that the silence about immigrants and immigration is broken only when racial states enact restrictive immigration policies in order to 'defend society'

from its immigrant others' (2012, p182). There are elements of policy making in this arena, in which the notion of a racial state defending itself from outsiders perceived to be different, rings true. This relates particularly to the regime of Direct Provision in which asylum seekers are forced to live excluded lives, with limited support. The avoidance of pull factors ensures that their lives are rendered suitably difficult in order to deter others. It would however be simplistic to attribute all policy-making processes, structures and actors to the motivations of a racial state for the following reasons:

Firstly, this research shed light on the agency of individuals working in the State apparatus or politicians, who have attempted to advocate from within the system and who use their position to highlight issues of humanitarian concern, rather than concentrating solely on exclusion and control. Broadly speaking, it would appear that the Department of Justice and those working within it place greater emphasis on issues of control and containment than those working for the State whose remit covers areas such as health or well-being. Secondly, the area of policy making in relation to immigration is not the only arena in which civic-state interactions have proved to be difficult and advocates have been excluded in various other fields in which there is not necessarily any racial dimension. Thirdly, policy making is complex, with multiple actors, streams and dynamics at play, with interactions occurring between a myriad of state and non-state actors with differing interests, making it difficult to attribute such processes to a single factor or motivation.

#### ***8.4.2 The substantive nature of policy making***

It is very clear from this research that the particular policy domain and substantive content are crucial aspects to consider when studying the structures and processes associated with agenda setting. An understanding of agenda setting would benefit from greater attention paid to the substantive policy domain and the nuances involved in the various worldviews, ideologies and objectives of the actors in the process.

This research was not focused on advocacy and agenda setting in Ireland in a general context, but rather within a very particular policy domain where such advocacy has neither sought nor received widespread media or public attention.<sup>42</sup> Immigration/asylum policy is very specific and unlike other areas of social policy, is linked strongly to issues

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<sup>42</sup> This can be contrasted with the context of disability advocacy, which maintains a relatively high media presence and possibly higher levels of public support.

of national identity, control of borders and delineation of people into various categories of insiders and outsiders. The children of asylum seekers straddle multiple identities and whilst arguments are made that they are children first and foremost, their *de facto* treatment under Irish policy and legislation treats them firstly as asylum seekers. Some policy makers and some policy areas (e.g. education and some areas of health) view such children as children first and foremost and attend to their rights as a child before considering other aspects. This has given rise to tensions, most notably between the approach adopted by the RIA, with a strong immigration lens and that of the HSE, concerned with health needs. Policy making that impacts most directly on asylum seekers day to day lives (the system of Direct Provision) is implemented primarily by the RIA under the Department of Justice. This has given rise to a divergence of worldviews or priorities both between such civil servants/ministers and advocates and within the wider public/civil service. Agenda setting within such a context is therefore not merely concerned with the technical aspects of placing such concerns or issues (problems) on the government agenda, but occurs within a context where worldviews, priorities and ideas of the various actors matter. Whilst various technical aspects involved in such processes are important and the particular strategies employed by actors are relevant, the central challenge lies in reconciling very divergent views on the rights, treatment of and conceptualisation of asylum seeking children and families.

In the introduction to this thesis, a quotation from Vitus and Liden (2010, p63) warns of the dangers of situations when a child is not a child and where ‘asylum seeking children have political and juridical rights, possibilities, obligations and limitations different from other children’. Such a warning holds true in the Irish context as immigration policy has systematically failed to take a child-centred approach, with the result that many decisions have had an adverse effect on children and families. Whilst the situation for separated children seeking asylum has somewhat improved with the introduction of foster care, the situation for those in Direct Provision accommodation has stagnated and recent policy and practice decisions have demonstrated a continuation of decisions taken without regard to the best interests of the child.<sup>43</sup> Despite the continuity of such policies, the

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<sup>43</sup> See e.g. Irish Refugee Council’s statement on closure of large hostel in Galway, accommodating up to 300 families just after the start of the school year without clear proposals on their relocation <http://www.irishrefugeecouncil.ie/news/closure-of-galway-accommodation-centre-shows-complete-disregard-for-family-and-childrens-rights-says-irish-refugee-council/1359>.



media and public reactions have been relatively muted and such issues rarely dominate newspaper headlines.

Advocates who contest such policies are what Hintjens et al. term ‘challenging the state of exception, which refers to ‘the combined might of state and corporate power to suspend normal rules of governance and legality’ (2011, p212). They assert that a shared world view has arisen among those in pro-asylum advocacy who assert that such a state of exception and its inhumane treatment of vulnerable migrants is illegitimate. Advocating against such policies can carry risks and in countries such as France, the very act of solidarity with asylum seekers or undocumented migrants can be considered a crime of solidarity (*délit de solidarité*) (Allsopp, 2012). This resonates somewhat with that of a racial state in which the actions of the state are viewed as racially motivated and they operate on racial terms to exclude those considered to be outsiders (Goldberg, 2002, Lentin, 2007). The notion of ‘a state of a exception’ however, is a broader conceptualisation of how states create spaces outside the normal democratic rules (Hintjens et al., 2011) and those who contest it often share a similar world view that such actions are incompatible with principles of human rights or justice.

In the current study, fundamental disagreement with the operation of Direct Provision policy (as an asylum deterrent) was found amongst almost all advocacy organisations interviewed (n=10). Their view of asylum seekers and how they should be treated generally stemmed from principles of solidarity, justice, human rights and respect for the rule of law. The organisations who participated in the study were all fully incorporated formal NGOs and were generally not associated with mass direct action and protest or with informal social movements. Many of those working in these organisations have professional expertise in areas such as law, social policy, advocacy or communications and most made efforts to engage in constructive dialogue with state actors. The findings of this study resonate with the statement by Hintjens et al. in relation to pro-asylum advocacy in the EU that ‘while strategies may vary, the challenge of delegitimising official claims that cruel policies are unavoidable to deter future inflows is a shared challenge’ (2011, p213). Whilst neither state actors nor advocates named it necessarily as such, this was often the root cause of the fundamental disagreement. For those advocating for the continuation of Direct Provision policy, it was perceived as a cost-effective policy that met some minimum standards, whilst being sufficiently unattractive to provide a deterrent to future asylum seekers. The question of its efficacy as a deterrent is unknown,

and it is estimated that several factors play a role in choice of country to seek asylum. The advocates on the other hand do not view deterrence as a necessary ingredient in state asylum policy, but rather view human rights and principles of equity and justice as fundamental.

Reconciling such different world views is extremely challenging and there was some evidence of advocates such as the Irish Refugee Council who also approached the issue through providing cost-effective solution-focused arguments through projects such as the Early Law Centre. Such initiatives move away from adversarial protest strategies, but could also be seen as within a services or 'non-adversarial partnership' model (Harvey, 2009a). The Irish Refugee Council does continue its policy-related advocacy work and has recently released a report on the effect of Direct Provision on children (Arnold, 2012).

#### ***8.4.3 Incorporating a human rights and legal dimension***

Handmaker (2009) emphasises both the need for advocates to respect the structural boundaries between them and the state and to mediate the translation of international human rights norms into local forms. Within current state/advocate relationship structures, the translation of human rights norms into meaningful action can be very difficult and policy makers differentiate between international law that requires compliance (such as EU Directives) and human rights monitoring processes that are seen to exert little more than moral pressure. Advocates find it difficult to invoke international human rights law and whilst they refer to it in many of their publications, little evidence was found of it being taken seriously by Government officials. One observer remarked however, that the accumulation of attention drawn to international criticism of Ireland's human rights record over a sustained period of time could place sufficient pressure on the Government to change some of its policies, but that civil servants did not like to deal with 'rights language' due to its potential cost implications.

Whilst NGOs may have had limited success in utilising human rights monitoring processes to exert pressure directly on Ministers or on civil servants, advocates and some observers believed however that they were important in terms of shining a spotlight on particular issues and drawing international attention to them. Some observers and advocates spoke about the opportunities that may be provided for example through when Ireland assumes the presidency of the EU in 2013.

It was widely recognised, that the EU Reception Conditions Directive to which Ireland has not opted in, would immediately apply a binding obligation on the Irish Government to grant the right to work and to meet various standards in relation to reception conditions. As indicated in interviews with policy makers and through a recent debate on the issue (Oireachtas Committee Debates, 2011), it appears to be very unlikely that Ireland will reconsider opting into such a Directive in the near future due to the perceived resource implications and potential pull factors.

Some NGOs and international organisations have come to the realisation that legal avenues and the role of test cases (within domestic courts initially) may be crucial in attempting to coerce a change in the legislation where there appears to be no political will to do so. Some NGOs (such as the Irish Refugee Council) have adopted a more legalistic focus and are attempting to bring about change through more legal rather than policy oriented angles.

## **8.5 Conclusions**

Attempting to influence the public policy agenda within this policy domain is very challenging and divergent worldviews and priorities of some policy makers and advocates can act as a dividing wedge between them. Some policy windows have opened momentarily, leading in some cases to small incremental changes (e.g. changing of house rules to lead to improved complaints system) or a general sense of having been listened to, with the possibility of putting one's concern on the public record (e.g. NGOs meetings with a group of new TDs and senators, joint Oireachtas Committee meetings). Such windows have generally opened within the political stream and have been aligned with policy or legislative cycles or particular events (e.g. election of new politicians). Other elements outlined in the proposed framework for analysing agenda setting and advocacy were also present, but particular elements in the advocate/policy maker relationship were missing, such as common understandings of the issues and each other's constraints, particularly in relation to the relevant civil servants. The role of outsider strategies still remains important, especially when changes in the public mood are required. Divergent views were expressed on their importance and some NGOs within the immigration sector held the view that public opinion was more likely to be negative and therefore not beneficial to devote significant resources towards it. Other advocates and observers

however noted its importance and those taking a children's rights or welfare angle were more likely to view it as important.

As shown here, placing an issue on the public agenda, whilst a first important step in the process does not equate to widespread policy change, concurring with Kingdon's finding that interest groups frequently lose control of an issue once it is placed on the agenda (Kingdon, 1995). Advocates have created some noise and momentum within policy circles and have ensured that certain issues have been placed on the public agenda, including processes of national policy making, international human rights monitoring and the wider public (to a lesser extent). The role of domestic law through test cases (which incorporates several relevant international treaties) has the potential to offer new possibilities, an angle currently being examined by some NGOs.

At the outset of this study, the question was posed on how NGOs advocate, including how it is received at state level and how they attempt to put their concerns on the government agenda. NGOs advocate through a variety of ways, with a stronger focus on insider strategies rather than influencing public opinion through outsider strategies (although some evidence of changes here were noted). Civil servants, once the principal targets of such advocacy through various networks and policy fora have now largely been sidelined, or they have sought to exclude NGOs. A stronger focus is placed on politicians, with attempts made to find new windows of opportunity to attempt to influence the public agenda. Some minor tensions were noted in relation to organisations focused more specifically on children who tended to take stronger children's rights and welfare focus versus those who argued from an immigration and general human rights perspective.

The interviews with policy makers, observers and funders revealed a more complex picture, with varying interpretations of policy, its formulation and the role of NGO advocates. Current and former officials from within the Department of Justice (or the RIA) displayed a defence of the *status quo* and general satisfaction with the system of Direct Provision. Whilst they insisted they did not make government policy *per se*, they operated with considerable autonomy and provided important policy advice to Ministers to continue with a policy that they viewed as cost effective. Other public servants expressed some unease in relation to some aspects of Direct Provision and used internal advocacy strategies to seek policy reform. Within the Department of Justice, there was evidence of a sense that NGOs were mis-guided in or possibly too believing of people's

stories. Advocates who attempted to work in a confrontational manner with civil servants sometimes found themselves excluded and isolated from policy or practice processes, where they once may have played a small role. Analysis of state and NGO documentation provided a very divergent discourse on the role of asylum seekers and the treatment they should receive from the Irish State. Divergent worldviews made it difficult for some policy makers to be very receptive to the messages of NGOs.

As to be expected, politicians offered varying viewpoints and whilst many raised queries in relation to individual cases or particular aspects of the operation of the policy (observed in documentary analysis and through the interviews), a very small minority were actively advocating for a complete overhaul of the system and as recalled by the advocates, many of the new TDs and senators were not very familiar with the system.

Overall it can be concluded that NGOs do play an important role in raising concerns in relation asylum seeking children and families in the Direct Provision system. Without their interventions, it is unlikely that such concerns would have come to the public light in the same manner or that outside international bodies would have shone a spotlight on such issues. They have also been responsible for ensuring such issues are debated in the Dáil, in joint Oireachtas Committees and in such a sense, they have put their concerns on the public agenda and have transferred social problems to the public sphere (Gusfield, 1981). Through the publications of various reports and submissions, they have also brought their concerns to a wider audience including the media (and the public), researchers, professionals and public or civil servants who do not have direct policy making powers in this arena *per se*, but may use such reports to raise their concerns within the wider policy system. Their role has been beneficial and important. The extent of their influence however, is difficult to quantify and whilst some small incremental changes have occurred as a result of their interventions, wide-scale policy change has not occurred. They have had some limited success in putting their concerns on the public agenda. NGOs were more successful in obtaining change in relation to separated children seeking asylum, but there is now evidence of a renewed focus on children and families in Direct Provision, which may feature more strongly in the debates on the new IRP Bill during 2013.

## 8.6 Implications for practice

This study did not seek to provide an independent objective evaluation of the role of advocacy in this domain and to provide recommendations for its improvement, but rather sought to discern the actors' perspectives on how they perceived the role of such advocacy, how it was received at Government level and their success in agenda setting. In doing so however, a number of observations were made during this research that may have implications for the practice of advocacy. These include the following:

- Whilst advocates have experienced difficulties in the past in dealing with civil servants who appear to reject outright the concept that the system of Direct Provision should be reformed, some level of co-operation with them may nevertheless be beneficial for the reasons outlined above. Such civil servants in some sense operate as the permanent wing of the State and senior civil servants have a high degree of autonomy in decisions concerning the interpretation and implementation of policy and in providing key policy advice for ministers.
- Civil servants, funders and observers all noted the importance of clear strong messages, backed up by relevant data. Costed and solution-focused alternatives were often considered to be more effective than constant negative proposal blocking. In line with the literature, interest groups may have greater influence over the alternatives than the core policy proposals (Kingdon, 1995). In the current economic climate, government policy making has become relatively stifled and is predominantly led by economic concerns. Solutions that concentrate on fiscal savings are therefore more likely to be successful.
- Whilst it may appear relatively obvious, the process of relationship building is crucial to the process of successful advocacy. Advocates in NGOs struggle to achieve a balance between advocacy that is at times critical and adversarial, yet in a spirit of mutual co-operation and respect for the other's position. Advocacy has also suffered from the limitations of a service model paradigm with its emphasis on non-adversarial partnerships, thus limiting the extent to which advocates can criticise the State (Harvey, 2009a). Inter-personal and communication difficulties on both sides have sometimes hampered the development of successful advocacy

relationships. Advocates in the children's sector appeared to benefit from more positive collaboration with officials and cited building relationships over time as key to this positive, yet sometimes critical collaboration.

- The direct targeting of politicians has grown in importance as an advocacy strategy for NGOs in this field. Whilst such a strategy may ultimately prove to be successful, this research has demonstrated the relatively short attention span of politicians and their changing allegiances and priorities. A few backbencher TDs or senators within the Government ruling parties expressed an interest in influencing policy and legislative change in this area and in some cases this was driven by the high volume of asylum related work at constituency level. Politicians however, are also concerned about support from the voting population (which excludes asylum seekers and other non-citizens in national elections) and research has demonstrated that Irish TDs and senators view their public support of immigration as likely to negatively affect their popularity among constituents (Integration Centre, 2012). Whilst awareness-raising work with individual politicians may be necessary, the strategy of focusing on them collectively and timing strategies around decision-making and legislative cycles (such as the new IRP Bill) may be important.
- A criticism sometimes made of advocates in this sector is their lack of representativeness, failure to engage meaningfully with their constituents and an over-professionalisation. Other observers and funders in the study also suggested this needs to be balanced with the need to develop specific expertise and engage in complex policy and legal arguments and discussions. Whilst some practical barriers exist in relation to the engagement of asylum seekers and particularly women (prohibition on employment, lack of childcare, transport costs etc. and a fear involved in public protest due to potential repercussions), there may be more creative ways to engage more proactively and publicly with asylum seekers without unduly exposing individuals. In interviewing politicians, there was also a clear sense that a high proportion of their constituency work is taken up with asylum related issues. This could offer an opportunity for more collaborative work

between NGOs, politicians and asylum seekers that could also draw more public support for the cause.

- This is linked to the need for greater media and public awareness of the issues. Advocates who worked successfully in other campaigns spoke of the usefulness of media and public-awareness raising strategies (e.g. on mental health, child protection, FGM, separated children etc.). Whilst the issue of Direct Provision does appear in the media, difficulties appear to have arisen with it now being an old and tired story with few new developments to make it newsworthy. On the other hand, advocates admitted that public awareness is relatively poor, with many myths still abounding. Exposure of advocates in media such as radio talk shows highlighted negative public perceptions and in some cases reinforced advocates sense of not being prepared to confront such racism and negative sentiments. The current economic crisis also made advocates wary of drawing attention to issues that were unlikely to draw widespread popular support. Working closer with asylum seekers and co-presenting human stories may still be necessary in order to boost some public support that may in turn influence decision making.
- Advocates are increasingly trying to draw attention to international human rights law and its implications. Such a strategy can be challenging given the often vague and non-binding nature of such soft law and recommendations made under monitoring processes are often not sufficiently specific or carry little weight. Ireland is however generally proud of its human rights tradition and significant negative international attention may cause humiliation for the Government. The participation of civil society actors in such monitoring processes in drawing up shadow reports and ensuring governmental accountability is crucial (Lester, 2005, Bhabha, 2002). Human rights strategies on their own however are not sufficient and as pointed out by one observer, the language of international human rights law can even aggravate some officials who are more likely to operate within a domestic legalistic framework. The use of test case litigation, commencing in the domestic courts (drawing on EU and international law where appropriate) may prove to be more useful than general human rights monitoring processes and could be used where particular examples of such rights infringements exist.



## 8.7 Concluding remarks

Public policy relating to Dispersal and Direct Provision and its associated impacts has been in operation for over twelve years, with little change occurring during this period other than an increase and decrease in the number of centres in line with rising and falling numbers of asylum seekers. During the first week of September 2012 a decision was made to close a large hostel in Galway City, housing over 270 asylum seekers and their families. Such families received letters just after the beginning of the new school term notifying them that they would be transferred to another centre in Ireland, with buses collecting them within 48 hours. This would mean new schools, new communities, starting afresh in an unknown place. Protests were organised by asylum seekers, NGOs became involved and it appeared as a prominent news item on the national news and in various other media. Some Galway based TDs pleaded to the Minister for Justice, and in a surprising u-turn, such appeals were initially listened to and a decision was taken by the Minister to defer the closing of the centre until he reviewed the reasons for the decision (Siggins, 2012).<sup>44</sup> Initially it appeared that the Minister was querying an executive decision taken by officials to close a centre (the RIA official confirmed in this research that no Minister had intervened in relation to the opening or closing of a centre). Pressure had been placed on the Minister by a combination of asylum seekers, NGOs, the media who brought the issue into the public domain and some local Galway senators and TDs asked the Minister to intervene. Notwithstanding such widespread concern however and an apparent degree of empathy by the Minister, the decision was reversed again and after reviewing the situation, the Minister instructed the closing of the hostel and transfer of all of the residents.<sup>45</sup>

This incident initially provided a symbol of hope whereby NGOs, politicians and media power appeared to combine to create some momentum for change. The recent events where the Minister has continued with the closure of the hostel however, provide an impression of a 'state of exception' in which normal standards relating to the well-being and welfare of children are ignored (Hintjens et al., 2011). The timing of such an incident

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<sup>44</sup> Whilst such an incident provides a very interesting case study, it was not included in the research analysis as it occurred after the data collection phase and therefore did not form part of the interviews.

<sup>45</sup> The Minister attempted to assure residents that steps would be taken to minimise the disruption. Whilst secondary school students were entitled if possible to remain in Galway, families with children in primary school were required to transfer to another town. See Nee, M. (2012) 'Justice Minister ignorant to concerns of Lisbrook residents, says Senator', *Galway Advertiser*, 11/10/12,

also coincided with the referendum on children's rights in the Constitution.<sup>46</sup> It is possible that civil servants convinced the Minister of the value for money arguments, on which such a decision initially based, with little regard for the impact on the lives of such children and their families. Whilst such a story temporarily dominated local newspaper headlines (Nee, 2012) and some national media (Siggins, 2012), the overall policy of Direct Provision is no longer a national headline story and did not feature the debate on the constitutional referendum on children's rights.

The picture for such advocacy and for those who seek reform in this area is not completely bleak. This research has demonstrated that such advocacy can be effective, some officials and politicians are sympathetic and do not necessarily share a worldview based solely on control and containment and are willing to join forces with advocates under particular circumstances. There is a possibility to build on such opportunities. From the outside the State may appear as a racial one or as a state of exception, determined to exclude in order to protect its homogeneity. Elements of these exist within the State and within policy-making. Such processes are complex, made up of actors with varying worldviews and the above example has demonstrated how those opposed to such a move from both within and outside the Government combined to seek change. Windows of opportunity do arise, often in conjunction with particular events, changes in the public mood or particular policy or legislative cycles. Advocates need to strive for a balance between challenging and co-operating with the State in order to ensure they will be included and listened to, but also have the freedom to voice their opposition to policies they perceive as inhumane and unjust.

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<sup>46</sup> The referendum on the 31<sup>st</sup> amendment to the Constitution on children's rights was passed by a majority of 58% to 42% on November 10<sup>th</sup>, 2012. Only 33.5% of the registered electorate voted. See <http://www.rte.ie/news/2012/1111/counting-of-childrens-referendum-votes-begins.html>

## **Appendices**

## Appendix One

### Summary Characteristics of NGOs Participants

<b>NGO</b>	<b>No. of Employees</b>	<b>Regional/National</b>	<b>Children/Immigration</b>	<b>Key focus</b>
1	10	National	Immigration	Refugee/asylum issues
2	15	National	Immigration	Immigration/refugee and integration issues
3	16	Regional	Immigration	Immigration/refugee /integration issues – support & advocacy
4	3	Regional	Immigration	Refugee/asylum seeker support and advocacy
5	15	National	Legal issues	Broad focus, with reform of DP as one area of concern
6	6	Regional	Immigration	Immigration/ refugee and integration issues
7	1	Regional	Immigration	Immigration/refugee/ integration issues
8	4	Regional	Immigration	Anti-racism / dev ed. & integration
9	200+	National	Children	Advocacy, support etc. for wide range of children's issues
10	200+	National	Children	Advocacy, support etc. for wide range of children's issues
11	10	National	Children	Advocacy for children's rights
12	2	Regional	Combination	Support & services for asylum seeking/refugee children

## Appendix Two

## Survey Monkey questionnaire for NGO Participants

Child and Family Research Centre, NUI Galway: Asylum Seeker Children Advocacy Questionnaire Survey



Exit this survey



**1. Thank you for taking the time to complete this survey. It is part of a study carried out by Louise Kinlen of the Child and Family Research Centre NUI Galway on the Role of NGO advocacy concerning asylum seeker children and its influence on Government policy making. Please ensure that you read the participant information sheet before completing. For any queries, please contact Louise Kinlen on l.kinlen2@nuigalway.ie or Tel. 091 495743 or 087 6355677**

☐ I have understood what is being asked of me and I consent to participate in the survey

**2. Is your organisation involved in advocacy?**

☐ Yes

☐ No

**3. How many staff (if any) does your organisation employ?**

☐ 0

☐ 1

☐ 2-4

☐ 5-9

☐ 10-20

☐ 21+

**4. What are the main funding sources for your organisation?**

☐ We rely mainly on the work of volunteers

☐ Fundraising/donations

☐ Membership fees

☐ Irish Government funding

☐ EU funding

☐ Philanthropic Organisations

<http://www.surveymonkey.com/s/MJ2P2CG>[11/26/2012 12:08:58 PM]

Other (please specify)

**5. What is your role within the organisation?**

**6. What percentage of time and resources of your organisation is taken up with advocacy activities?**

- ☐ More than 80%
- ☐ 50%-80%
- ☐ 20%-49%
- ☐ Less than 20%

**7. Who carries out the main work of your organisation?**

- ☐ Mainly paid staff
- ☐ Mainly volunteers
- ☐ A combination of paid staff and volunteers

Other (please specify)

**8. Can you describe briefly the main functions of your organisation**

**9. Is the work of your organisation mainly focused on working**

- ☐ at a local/county level
- ☐ at a regional level
- ☐ nationally
- ☐ internationally

**10. On behalf of which of the following groups do you advocate? (please tick as many as appropriate)**

Main focus

Sometimes

Not at all

Asylum seekers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Refugees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Asylum seeker children in direct provision	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Separated children	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ethnic minorities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Migrants	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Children in care	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Children in general	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (please specify)			

**11. Which of the following (advocacy type)activities is your organisation involved in?**

	Frequently	Sometimes	Rarely	Never
Policy submissions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Research and reports	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Media campaigns	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Education/awareness raising	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Media interviews/press releases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internet based campaigns	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Participation in NGO networks	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representation on public working groups/bodies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Meetings with public officials	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Meetings with elected representatives	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (please specify)				

**12. Do you advocate mostly on behalf of**

- ☐ Individuals  
☐ Groups  
☐ Individuals and groups

**13. What do you consider to be the most effective advocacy methods? Please give a reason for your answer**

**14. Are you involved with the following types of networks**

- |  |   |
|--|---|
| <input type="checkbox"/> National networks of children's NGOs      | <input type="checkbox"/> International migrant/refugee networks |
| <input type="checkbox"/> National networks of migrant/refugee NGOs | <input type="checkbox"/> No involvement in any network          |
| <input type="checkbox"/> International children's NGO networks     |   |

Other (please specify)

**15. If you are involved in networks, do you use these networks to advocate collectively**

- |  |                                 |
|--|---------------------------------|
| <input type="checkbox"/> Yes, frequently | <input type="checkbox"/> Rarely |
| <input type="checkbox"/> Sometimes       | <input type="checkbox"/> Never  |

Please comment

Please answer questions 11 to 15 if you have been involved in advocating on behalf of or assisting asylum seeker children

**16. Which have been the main issues of concern to your organisation in relation to asylum seeking children in direct provision?**

	Of huge concern	Of some concern	Not of concern
Overcrowding	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Diet and food	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Moving of families/individuals	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Education and educational supports	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parenting and parenting support	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



Childminding/pre-school	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Homework/after school support	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Extra-curricular activities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Processing of asylum claims	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Paperwork and legal status	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Mental health issues	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Physical health	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Unsuitability of environment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Deportation/risk of deportation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
"Aged-out" minors in direct provision	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Child protection issues	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other please specify below	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please specify)			

**17. What other concerns do you have in relation to asylum seeking children in general? Please specify.**

**18. What means do you use to find out what the main issues for asylum seeking children are?**

- 1.
- 2.
- 3.

**19. Who are the main targets of your advocacy activities? (i.e. who do you try to influence)**

- ☐ The general public
- ☐ The media
- ☐ Government officials

- ☐ Politicians
- ☐ International organisations
- ☐ Asylum seeker/migrant communities
- Other (please specify)

**20. What means have you used to bring any of these issues to the attention of the Government and how effective have they been?**

	Very effective	Somewhat effective	Not effective	N/A
Direct meetings with Government officials	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Letters/E-mails	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Telephone conversations with officials	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Research reports	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Publicity campaigns	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Direct protest	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Communication with elected representatives	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Participation on committees/working groups	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please specify)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please comment

**21. Can you provide any examples of areas where you feel your advocacy activities**

Have  
had a  
positive  
effect

Have  
made  
no  
impact

**22. If you could make three changes that would improve the lives of children in direct provision, what would they be?**

1.

2.

3.

**23. Do you feel that NGOs are listened to by Government in terms of making and implementing policy in relation to asylum seekers and their children?**

☐ Yes, a lot

☐ Somewhat

☐ Not at all

Please comment

**24. Would you be interested in taking part in an interview to discuss these issues and others in more detail. If yes, you can insert your name/contact details here or alternatively E-mail me on [l.kinlen2@nuigalway.ie](mailto:l.kinlen2@nuigalway.ie)**

☐ Yes

☐ I would like more information before deciding

☐ No

Comment

**25. Any further comments**

<http://www.surveymonkey.com/s/MJ2P2CG>[11/26/2012 12:08:58 PM]

Thank you very much for taking the time to complete the survey.

## Appendix Three

### Results of Quantitative Survey

#### *Introduction*

The first data collection phase involved a mainly quantitative survey of NGOs involved in advocacy for asylum-seeking children either from the perspective of an immigration focus or a children's rights and welfare focus. A total of 30 organisations were contacted initially and follow up contact was made with 15 organisations whose remit was considered particularly relevant to the study. A total of 6 respondents completed the on-line survey (using Survey Monkey). Five of the respondents also participated in the interview and completed the survey just before or after the interview (respondents were reminded during the interview). Whilst it was possible to complete the survey anonymously, all participants provided identifying information in their responses. In order to protect participant identity however, individual responses are not directly compared in this thesis with direct quotations of the same respondents who participated in the interviews.

The survey response rate was low and respondents who participated in the interviews may have seen it as a duplication of what was discussed in the interviews. Given the low numbers and the small sample size, it is not possible to make noteworthy generalisations from the data. It was however useful from the following perspectives:

- NGOs working in the sector and highlighted that advocacy does play an important part of the work of those who participated.
- It assisted in further development of the fieldwork, through making contact with organisations and identifying topics to be discussed in the qualitative interviews (instrument development).
- It also served the purpose of providing complementarity and completeness to the qualitative data (Bryman, 2008) and provided some quantification of factual aspects relating to the research.

The key results are provided below. Given the limited sample size, it was not considered necessary to provide very detailed analysis of the responses.

### ***Results of Part 1: Overview of the Organisation***

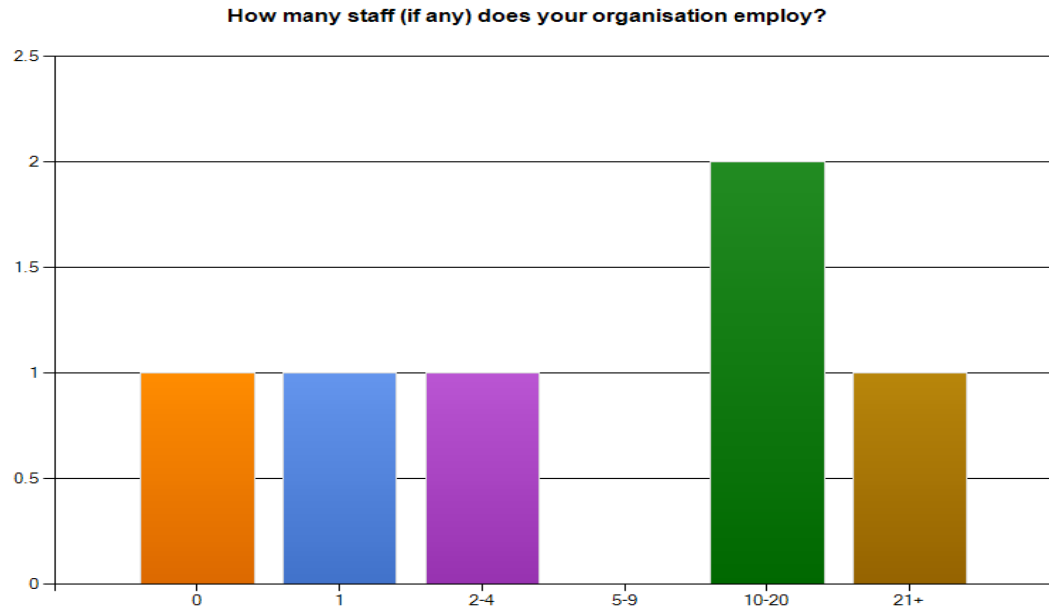
Respondents were asked to give an overview of their organisation and their own particular role. To preserve confidentiality of the respondents, this information is not presented in detail here, but is summarised in the table below.

<b>Type of Organisation</b>	<b>Children's Rights/Welfare</b>	<b>Immigration Focused</b>	<b>National</b>	<b>Regional/Local</b>
<b>Number</b>	2	4	3	3

Whilst three organisations' main focus was on children's rights or welfare, expertise also existed within these organisations specifically on the rights and concerns of migrant and asylum-seeking children. This is also reflected in their responses given.

All six respondents replied that their organisation was involved in advocacy. When broken down further, it appeared that one organisation was more involved in advocacy at an individual rather than a systemic level, which was also a reflection of the type of work the organisation was involved in.

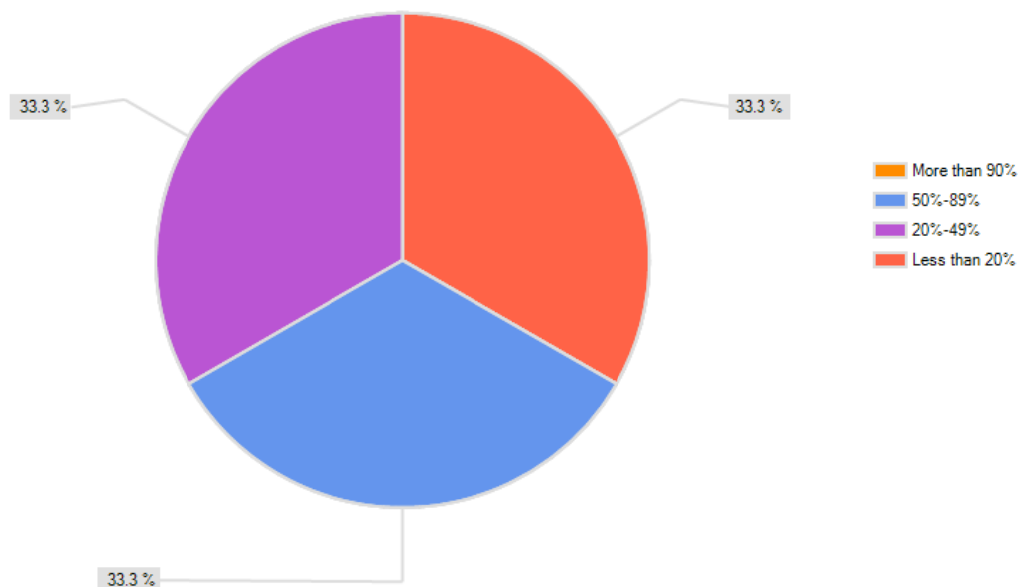
The next question asked about the number of staff employed by the organisation, the results of which are below. In the case where no staff was employed, the organisation relied entirely on volunteers.



Respondents were asked whether they advocated on behalf of individuals or groups, and one replied individuals only and the other five respondents replied a combination of both.

The next question concentrated on the percentage of time the organisations spent on advocacy activities, as summarised in the chart below. No respondent stated that they spend over 90% of their time on advocacy, which reflects the fact that none of the organisations who participated in either the survey or the interviews was established for the sole purpose of advocacy.

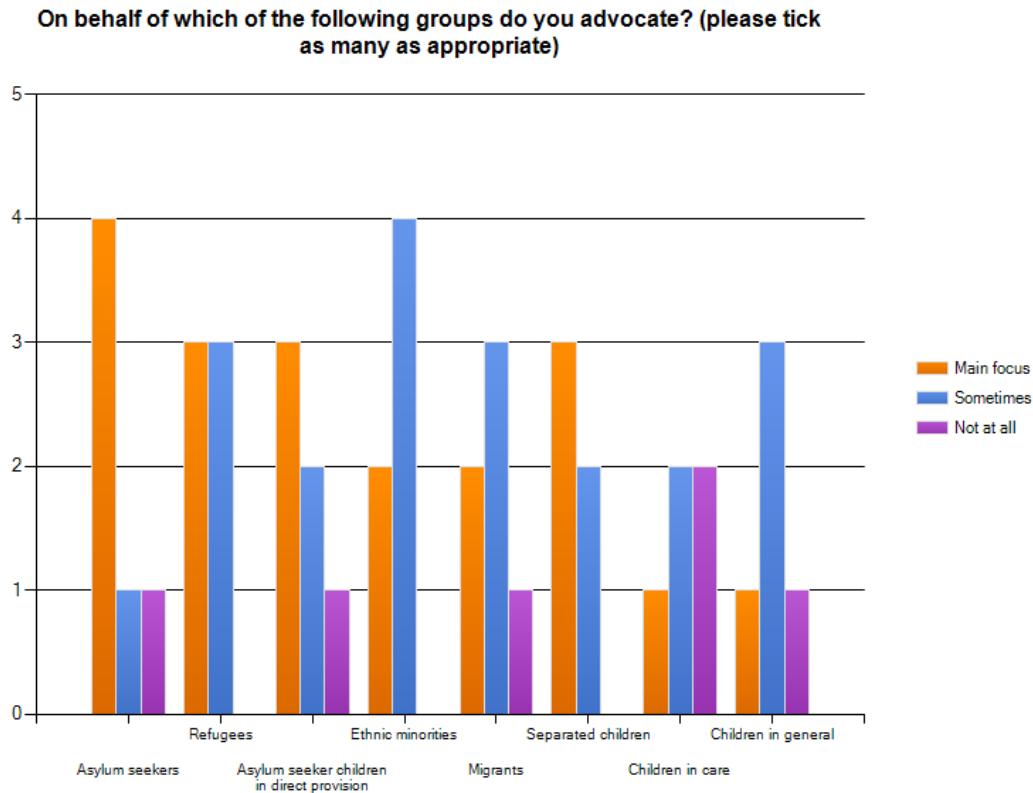
**What percentage of time and resources of your organisation is taken up with advocacy activities?**



## ***Part 2 – Specific Advocacy Activities***

The next questions focused on specific advocacy activities of the organisations, their particular areas of concern and the use of coalitions.

Question 10 asked respondents on behalf of which groups they advocated. The category, which received the highest response of ‘main focus’ was asylum seekers and ‘ethnic minorities’ was the focus of all organisations advocacy to some extent. The only category added was ‘aged-out minors’, which refers generally to separated children who are placed in the Direct Provision system, on turning 18.

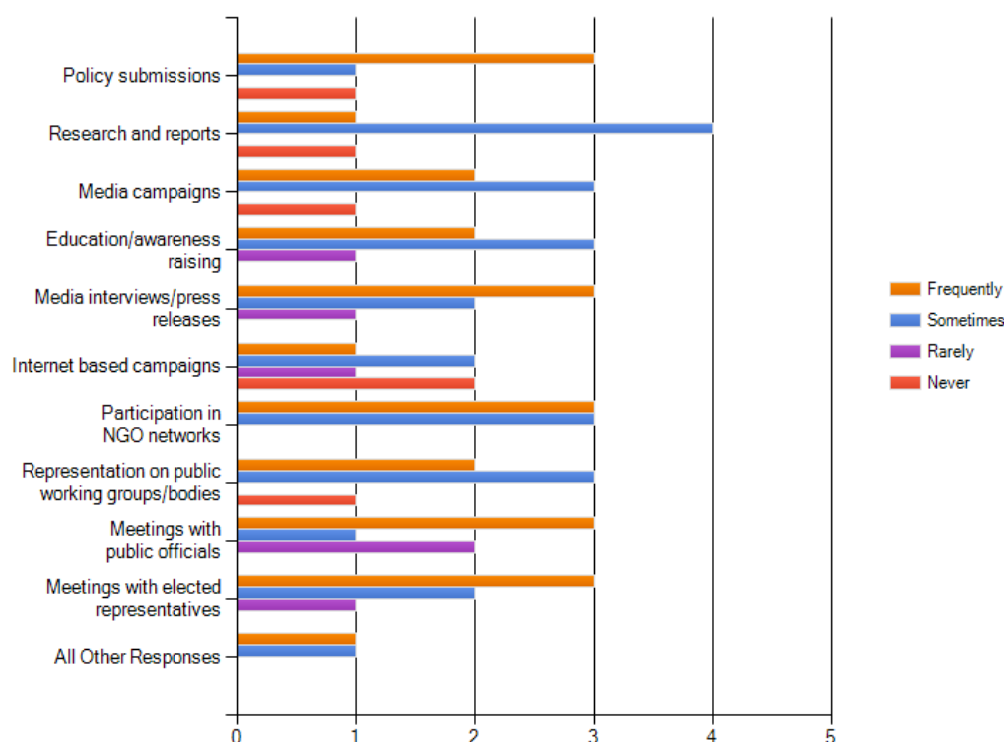


In Question 11 respondents were asked to choose from a list of specific advocacy activities they were involved in, and state the frequency on a four-point scale. Other responses that were added included making phone calls and writing letters on behalf of individuals and one-to one advocacy. Activities, which received the highest number of ‘frequently’ responses (n=3) were policy submissions, media interviews/press releases and participation in NGO networks. All respondents replied that they participated in NGO networks, as demonstrated strongly in the qualitative interviews.

The chart below summarises the responses to question11.



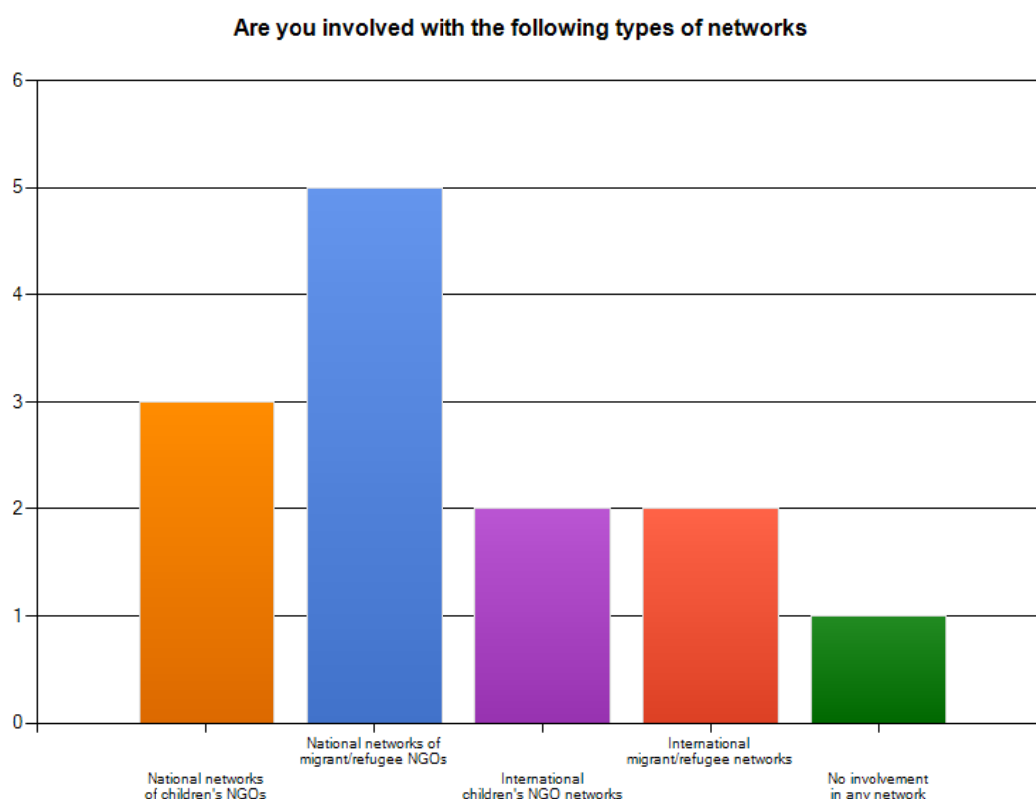
**Which of the following (advocacy type)activities is your organisation involved in?**



Question 13 was an open-ended question, which asked respondents what they considered to be the most effective advocacy methods and to explain why. All six provided a detailed response to this question and one common thread throughout all responses was that they try to influence the political system and change Government laws, policies or procedures. Evidence based submissions (not using anecdotal evidence) were highlighted as important by four of the respondents, with one respondent explaining in detail ‘we don’t use anecdotal evidence, for every issue we will assemble at least a focus group if not hire in expert researchers to give us the reality. This is then disseminated amongst networks, fora, political representatives, government officials with a strategy attached including recommendations’. Influencing the media and public opinion was just mentioned by one respondent. Organisations whose primary focus was children (as compared with immigration issues) reflected this in their response by stating they sought to ‘seek change across all areas that affect children’s lives’ or, ‘it is vital for the child’s voice to be heard in policy making’. Two respondents also emphasised the importance of one to one meetings (with officials/policy makers) and focusing sometimes on advocacy for individuals. One respondent also expressed the view that ‘one to one meetings seem to

bring about change for individuals. It is more difficult to achieve results for groups or communities. It is very difficult to find a representative group for asylum seekers’.

Question 14 asked respondents about their involvement in NGO networks and the particular types of networks. National networks of migrant/refugee NGOs received the highest number of responses, which represents a reflection of the profile of the organisations participating in the survey.



Question 15 then asked respondents if they are involved in networks, whether they use them to advocate collectively. 60% replied that they do frequently and 40% that they do occasionally. Some further clarifications included ‘Depends on what the networks are about and the individuals and organisations involved’ and ‘networks are loose gatherings and out of them alliance partners develop around specific issues’.

Respondents were then asked an open-ended question on the methods they use to find out what the issues for asylum seeking children are. The results are summarised as follows:

<b>Method</b>	<b>No. of Responses</b>
Asking children directly	4
Collaboration with other NGOs	4
Asking their parents	2
Engagement with service providers working with asylum seekers	2
Through research (primary and secondary)	2
Visiting hostels	1

The next question asked very broadly whether they feel that NGOs are listened to by Government in relation to this area. No-one felt that they were listened to ‘a lot’ and 60% stated ‘somewhat’ and the remaining 40% ‘not at all’.

Question 21 was an open-ended question that asked respondents to give examples of where they felt their advocacy activities had had both a positive impact or made no impact. Examples of a positive impact included the specific CADIC coalition (which campaigned against the deportation of Irish-born children and was successful in securing humanitarian leave to remain in many instances); the improvement in child protection systems in Direct Provision; increased awareness among elected representatives of the situation; some success in relation to individual cases; input into the Immigration, Residency and Protection Bill; work against human trafficking; helping parents to see issues from the viewpoint of their children and awareness raising among the public and in schools. Many of these issues are discussed in greater detail in the interviews, where respondents gave detailed accounts of the particular advocacy methods they used and how they feel they might have had a positive impact.

Areas that respondents cited as not having had any impact included ‘official recognition that migration is a permanent reality in Ireland’, length of time spent in the asylum process, low recognition rates, access to social welfare and overall progress for residents of Direct Provision. Again these areas were highlighted during the interviews as ones where NGOs felt it was very difficult to make progress and that their views on these issues were not taken into account.

## **Appendix Four**

### **Interview Schedule NGOs :Topics for Discussion**

1. Role of your organisation, function, funding, no. of staff etc.
2. Your own role
3. Advocacy activities: description, since when
4. Individual or group advocacy
5. NGO networks – usefulness etc.
6. Examples of any particular advocacy activities relating to asylum seeking children – what particular issues?
7. Do you tend to use more legalistic/human rights or humanitarian arguments?
8. What has worked – describe in detail what you did. What did not work so well? What advocacy strategies are most/least effective and for which kinds of issues?
9. Strategies for organising particular campaigns?
10. Trace particular concerns raised with Government – which concerns, how did they become issues for you, who raised them, with whom, what were the outcomes
11. Contacts with Government departments – who, how, where, what type of interaction
12. How do you rate relationship with the Government – what factors influence it
13. Any particular interactions you have had with Government officials – did you feel listened to? Did you feel you had any influence? Did what you have to say make a difference and was it taken further?
14. What other factors influence your advocacy work: Macro/micro levels. e.g. public opinion, media, political factors, particular instances on the ground
15. Your involvement/experience of Government policy making: What roles do NGOs such as yourself play in this process
16. How do you get your ‘issues’ on to the Government table? Do you bring them up or respond to particular Gov requests. Any examples? Are some issues easier to bring up than others? Why?
17. Looking at Government policy making and implementation – mismatch between policy and practice?
18. Does Government co-operate better with certain NGOs than others? Why?
19. Anything you think the NGO sector could do better? Particular skills needed?
20. Do NGOs in Ireland have much influence on policy formation in Ireland? Why/why not?

## Appendix Five



### Child and Family Research Centre, NUI

### Galway

## Advocacy for Asylum-seeking Children Research

### Participant Information Sheet

**You are being invited to take part in a research study. Before you decide, it is important for you to understand why the research is being done and what it will involve.** This Participant Information Sheet will tell you about the purpose, risks and benefits of this research study. If you agree to take part, I will ask you to sign a Consent Form. If there is anything that you are not clear about, I will be happy to explain it to you. Please take as much time as you need to read it. You should only consent to participate in this research study when you feel that you understand what is being asked of you, and you have had enough time to think about your decision.

**Title of Study:** *A Study of NGO Advocacy Concerning Human Rights Issues for Asylum Seeking Children and its role in setting the Governmental Agenda and Policy-making*

**What this Study is About:** In this study I wish to find out what role Non Governmental Organisations (NGOs) play in advocating or lobbying Government in relation to the human rights of asylum seeking children, specifically those who are living in direct provision accommodation. As well as looking at what type of advocacy NGOs are involved in, I would like to explore how this is received by Government and whether it has any influence on policy making, with a particular emphasis on whether such issues even make it onto the official agenda and whether they are even discussed at meetings etc. by Government officials.

I am interested in the process of policy making and the particular role that advocacy plays in this process. The study is specifically concerned with human rights issues of asylum seeker children as they appear to be a group of concern to NGOs, yet it would appear that Government policy in this area has changed little during the last decade.

**Who is Doing this Research:** This research is being carried out by Louise Kinlen, a doctoral candidate in the Child and Family Research Centre, NUI Galway, under the supervision of Prof. Chris Curtin (Head of School of Political Science and Sociology).

**Why do we Need this Research:** A number of critics of the direct provision scheme have highlighted human rights concerns of children. This has been documented and it is clear that a number of organisations are attempting to raise these issues at Government level, yet we know little about what happens when they do so, how Government policy in this area is formed and the influence that NGO advocacy does or does not have in this process. It will also provide an opportunity to explore whether asylum seeker children's

human rights under treaties such as the Convention on the Rights of the Child and under Irish law are being raised by NGOs and the response of Government to such concerns.

**Why are you being asked to Participate:** You are being asked because you work with an NGO (professionally or voluntarily) that is involved in advocacy work that looks at some issues surrounding asylum seeking children.

**What are personnel from NGOs working in this area being asked to do:** People working in NGOs who may have some involvement in advocacy work on behalf of asylum seeking children are being invited to take part in two elements of the research:

- 1) Complete a short survey questionnaire on the nature of advocacy work you are involved in, particular strategies, subject matter of advocacy, communication channels with Government etc. This can be completed electronically and you are not required to give your name on the questionnaire.
- 2) Participate in an in-depth interview at a time and venue that suits you. This interview may explore some issues from the questionnaire in more depth and may look at specific instances of how you tried to raise concerns regarding asylum seeking children, the format in which you did so and the response you received (if any) by Government and the consequences or effects of such advocacy work.

This interview will last ca. 45 minutes to 1 hour and I will ask permission to record it. If you do not wish it to be recorded, I can take notes. Again participation is completely voluntary and if at any stage during the interview you wish to withdraw, you can do so.

**How will the information you provide be used:** Any information that is collected about you during the course of the research will be kept strictly confidential and will not be shared with anyone else. The information collected in this research study will be stored in a way that protects your identity. The information provided will be reported in a manner which will not identify you in any way. The recordings will be transcribed and the electronic recordings will be destroyed immediately after transcription and the written transcripts and questionnaire responses will be stored securely for a period of five years in a way that protects your identity. No-one other than the researcher will be given access to either the recordings, transcripts and completed questionnaires.

Under Children First Guidelines and the Child Protection Policy of the CFRC, if any specific child protection concern arises during the course of the research, the researcher is obliged to report these concerns to the relevant child protection authority.

### **How can you consent to participate?**

If after reading this information sheet you agree to participate, you can fill in the consent form and E-mail/post it to me or alternatively I can collect it when we complete the interview. You can tick whether you want to take part in the two stages (survey and interview) or just one of them. You can still take part in the interview if you do not complete the questionnaire.

**What should I do if I have any complaint or concern about the research or the way it is conducted?**

If you have any complaint or concern about the research, you can contact the researcher Louise Kinlen on [l.kinlen2@nuigalway.ie](mailto:l.kinlen2@nuigalway.ie) Tel. 087 6355677 or her supervisor Prof. Chris Curtin on [chris.curtin@nuigalway.ie](mailto:chris.curtin@nuigalway.ie)

Ethics approval has been obtained for this research by the Research Ethics Committee of NUI Galway. If you wish to contact someone independent and in confidence, you may also contact 'the Chairperson of the NUI Galway Research Ethics Committee, c/o Office of the Vice President for Research, NUI Galway, [ethics@nuigalway.ie](mailto:ethics@nuigalway.ie).

**Further Information**

The following documents will be available to you at your request:

- Survey questionnaire
- List of topics for discussion in interviews with NGOs
- More detailed information on the research

If you have any further questions, please do not hesitate to contact Louise Kinlen at any time.

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**Thank you for taking the time to read this information sheet.**

**You will be given a copy of this information sheet and signed consent form to keep.**

.....

## Appendix Six



cc.

**Re: Research on the asylum policy making process**

28<sup>th</sup>

November, 2011

Dear .....,

I am writing to you to inform you about research I am carrying out on the policy making process in relation to the reception of asylum seekers in Ireland. I am looking at the role of various voluntary and statutory bodies in the formulation and implementation of policy in relation to the reception conditions of asylum seeking families and children, particularly those housed in the Direct Provision system. The research is looking at the role that various organisations (statutory and voluntary) play in contributing to this policy process, the interactions between statutory and voluntary organisations and whether the advocacy work of voluntary sector organisations (and others) has any influence on policy making in this regard.

I am based in the Child and Family Research Centre in NUI Galway and in addition to contributing to my doctoral thesis, I also to present the findings of the research in a shorter report format that may be of benefit to those working in the sector. I am also consulting with a range of voluntary sector agencies and examining the role they play in attempting to influence policy making in this regard. I feel it would be very important to also represent the views of the Government and in addition to speaking to civil servants in a range of roles, I also hope to carry out interviews with elected representatives who have taken an interest in this area and other commentators such as funding agencies and researchers.

I have been in touch with .....who suggested that I should write to you to outline the research. I would be very grateful of an opportunity to carry out an interview with staff of



the HSE (at regional or national levels) involved in decision/policy making in relation to asylum seeking families and who also have some knowledge of the issues on the ground. I would really appreciate if I could carry out such an interview with .....and any others who fit these criteria. The interview would not last more than one hour and will be carried out at a time and place that suits the participant. Ethical approval has been received for the research and individual participants will be guaranteed confidentiality and anonymity in as far as is possible. I am attaching an information sheet, which outlines the research in some more detail and provides information on the data collection and retention procedures.

If you have any queries or would like to discuss this further with me, please do not hesitate to contact me. I would be very grateful if you could then let me know whether it would be possible to proceed with the interviews.

I look forward to hearing from you.

Yours sincerely

---

Louise Kinlen

[l.kinlen2@nuigalway.ie](mailto:l.kinlen2@nuigalway.ie)

Tel. 091 495743 / 087 6355677

## Appendix Seven



Ref. No. \_\_\_\_\_

### *Research Consent Form*

**Name of Researcher: Louise Kinlen**

*Please Tick Boxes*

1. I have read this consent form and the participants information sheet ☐
2. I have had the opportunity to ask questions. ☐
3. I understand the information given and my role in this research. ☐
4. I have had enough time to consider my participation in this research. ☐
5. I understand that my participation is entirely voluntary and that I am free to withdraw at any time ☐
6. I am aware that my participation in the study and the information I disclose will be treated in a confidential manner and that my name will not be used. ☐
7. I understand that under Children First Guidelines, that any child protection concerns I raise will be reported to the relevant child protection authorities. ☐
8. It has been explained to me that any audio recordings will be destroyed after transcription and written information gathered will be retained and stored securely for a period of five years. ☐
9. I agree to take part in the interview ☐

Name of Participant

Date

Signature

Researcher

Signature

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## **Appendix Eight**

### **Interview Guide for Sample Policy Maker Interviewee**

#### **General**

1. Evolution of reception policy for asylum seekers.
2. Who have been key players in developing this policy? Has this changed over time?
3. Are you aware of particular reasons for not opting into Reception Conditions Directive?
4. Role of your organisation in implementing it.
5. Was specific family accommodation considered? Why/why not?
6. Does your organisation have any concerns about the implementation of the policy?
7. Has recession affected resources available for supports for asylum seekers?
8. Does the State view children in the asylum process first and foremost as children or by virtue of their immigration status? Can this be a difficult balance to achieve?
9. Interactions with Elected Representatives.
10. How much of your work is taken up with PQs?
11. What form of interactions exists between elected officials and your organisation?

#### **Interactions with Other Agencies**

12. What form of interactions do you have with other Government agencies? E.g. HSE
13. Are there particular fora where such issues are discussed?
14. Is the policy towards asylum seekers understood in the same way by different agencies?
15. Does the Department of Justice operate under different constraints? Are these understood by others?
16. Interactions with Voluntary Sector.
17. In what way do you collaborate with voluntary sector agencies?
18. What are the benefits of such collaboration?
19. In relation to advocacy work of NGOs, who are seeking change – is it more targeted at you or at politicians? What form does it take?
20. What is the response of your organisation to such campaigning?
21. Do you think such organisations can play a role in bringing about policy change?
22. Do you think they could approach it differently? How?
23. What influence do you feel international human rights monitoring processes have had on the formation or implementation of policy in this area? E.g. under UNCRC, UPR, UN Rapporteur on Poverty, Commissioner Hammersberg etc.

### **Oireachtas Committee work**

24. What led to Joint Oireachtas Committee meeting with Committee on Health and Children and Integrating Ireland?
25. What do you think was the main issue discussed at that meeting?
26. Do you think that you were asked to discuss issues in relation to implementation of Government policy or also asked about the content of the policy itself?
27. What changes if any were brought about as a result of that meeting?
28. Is there anything else you would like to add?

## **Appendix Nine**

### **NVivo Analysis: Summary of Key Steps Undertaken**

The interview data and some secondary documentation were analysed in NVivo. The information here provides a synopsis of how such data was coded and analysed using NVivo. It is not a comprehensive account of all analysis, but provides some examples of how the codes were organised.

#### **NGO Summary of Coding (After 3 coding rounds)**

##### ***Theme 1 Advocacy Strategies***

- Coalitions and joint working
- Advocacy strategies and their effectiveness
- County and national structures
- Self advocacy and role of asylum seekers

##### ***Theme 2 The substantive Issues***

- Government policy General
- Children's vs. immigration issues
- Direct Provision system
- Concerns about children in Direct Provision
- IRP Bill

##### ***Theme 3 The Policy making process and influencing it***

- Influence on the policy making process
- Oireachtas Committees
- Issue emergence and agenda setting
- Level and type of contact with RIA
- Role of HSE

##### ***Theme 4 External Factors***

- Relationship between NGOs and Government
- Other factors that influence advocacy work (including public opinion, media and wider contextual factors, economic climate etc.)
- NGO structures and funding
- Human Rights and International processes

*Case studies and episodes that illustrate certain points*

Episode 1 Interagency meetings

Episode 2 Joint Oireachtas Committee on Health and Children

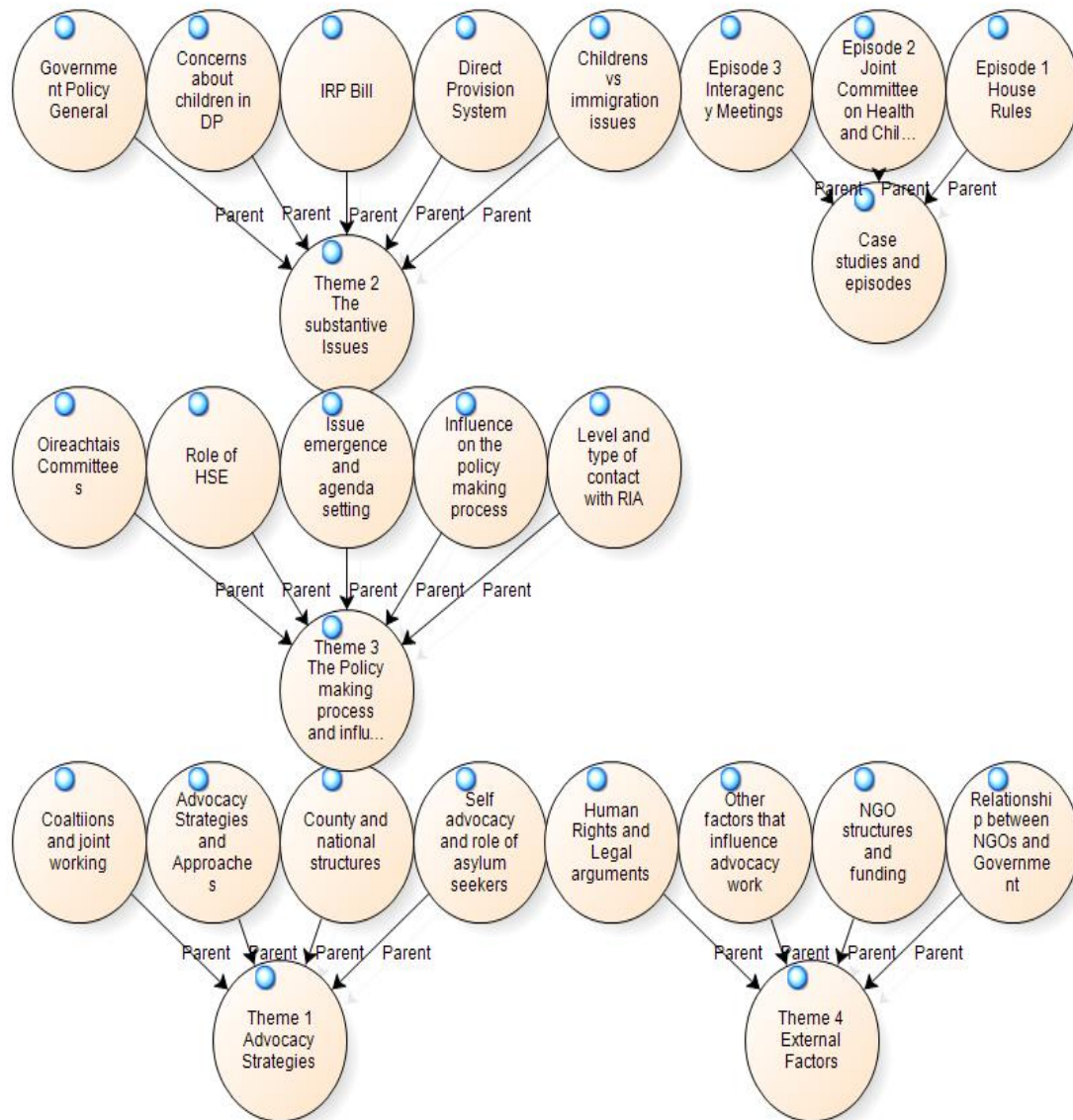
The diagram below outlines proportionately the number of references to each code from the NGO interviews.

**Figure 1. Tree map of NGO Interview nodes by number of items coded to each node**



This diagram above was based on combining of nodes, in stage 3 of the coding. The nodes were then organised into thematic areas, which formed the basis of Chapter 5. The model below demonstrates the themes (as parent nodes) and the various child nodes attached to each theme.

**Figure 3. Summary model of NGO interview thematic nodes in NVivo**



### **Analysis of Policy Makers/ Experts Interview Transcripts**

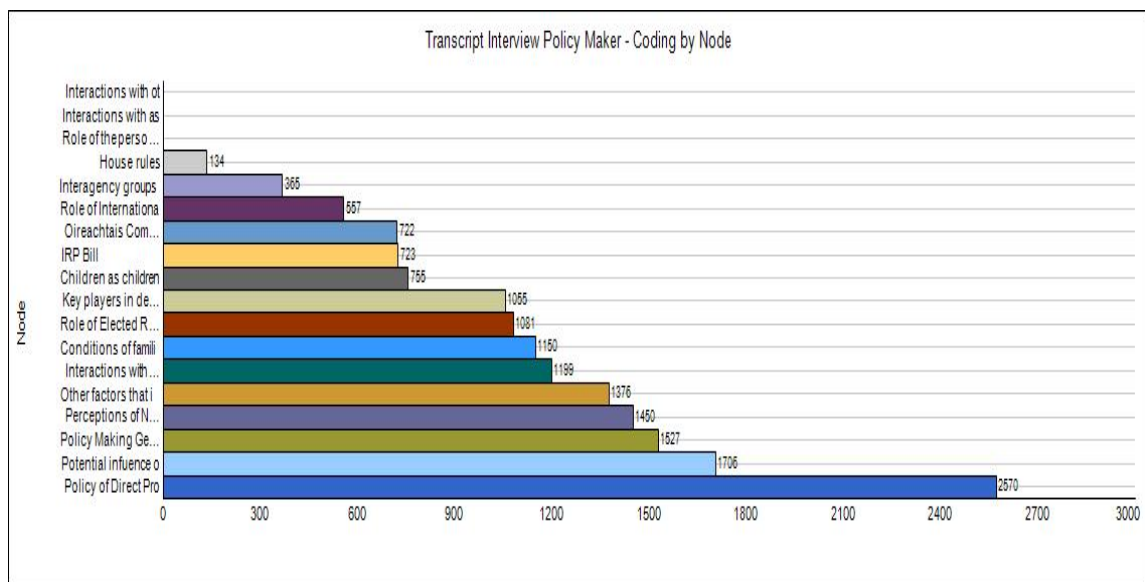
This first round was comprehensive, covering many of the key issues. A second round was conducted and new issues emerging were noted, based on a third reading of the transcripts and some initial analysis conducted after round 1. The analysis of the NGO

interviews had been conducted by this stage and emerging themes common to both were noted.

### *Codes from 1<sup>st</sup> Round of Policy Maker Coding*

- Children as children or immigration status
- Conditions of families and children in DP
- House rules
- Interactions with asylum seekers
- Interactions with NGOs general
- Interactions with other gov agencies
- Interagency groups
- IRP Bill
- Key players in developing asylum reception policy
- Oireachtas Committees
- Other factors that influence policy process
- Perceptions of NGO advocacy
- Policy making General
- Policy of Direct Provision
- Potential influence of NGO advocacy on policy
- Role of elected representatives vs. civil servants
- Role of International Law and human rights
- Role of the person and organisation

**Figure 4. Sample chart of one policy maker transcript analysis (round 1): Number of words coded to each node**





**Figure 5. Coding stage 1 of policy maker/observer interviews: Summary of nodes, sources and references**

Name of node	No. of sources	No. of references
Children as children or immigration status	6	12
Conditions of families and children in DP	9	29
House rules		4
Interactions with asylum seekers	8	9
Interactions with NGOs	11	30
Interactions with other gov. agencies	8	32
Interagency groups	3	7
IRP Bill	7	16
Key players in developing asylum reception policy	9	21
Oireachtas Committees	7	16
Other factors that influence policy	10	47
Perceptions of NGO Advocacy	10	53
Policy Making General	11	44
Policy of Direct Provision	10	57
Potential influence of NGO advocacy on policy	9	40
Role of Elected Reps vs. Civil Servants	8	23
Role of International Law & HR	6	20
Role of the person and organisation	6	25

**Figure 6. Summary tree map of stage 2 coding of policy maker interviews by number of references**



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