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Caught Between Categories: Defining Unaccompanied Minors in the Danish Asylum System

Master thesis

by

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Abstract

Unaccompanied minors inhabit an ambivalent position within the Danish asylum system. As both children and asylum seekers, they are subjected to two separate prices of legislation and policy frameworks, which sometimes conflict. As the focus of the asylum regime in Denmark has moved from human protection to immigration control, this ambivalence has become even clearer.

Through an analysis of the changes to policies relating to unaccompanied minors in the Danish Aliens Act from 2010, this thesis explores the different ways unaccompanied minors are treated within the asylum system depending on how they are defined as either children first or asylum seekers first. It uses the post-structuralist tools of genealogy and deconstruction to break down the policy. It builds on Laclau and Mouffe's theory of hegemony through discursive struggle to how the categories defined in the policy and how they are positioned in relation to each other.

The results from applying the six questions from the "what is the problem represented to be" method for policy analysis show that the policies restricting who is given access to protection in Denmark contributes to giving the 'asylum seeker' identity hegemony over the 'child' identity. This in turn affects how the minors are treated and what is expected from them. The study also finds that the representation that is created of unaccompanied minors as a 'problem' justifies the state's restrictive policies and use of indirect deterrence measures to discourage future arrivals of unaccompanied minors.

The thesis ultimately argues that the representation of the problem and the proposed solutions constitutes a form of deterrence that can infringe on the minor's right to a secure childhood. It finds that the way the categories are handled and either suppressed or elevated constitutes a form of power which can be used to achieve specific political goals. In this context, the goals are immigration control.

Keywords: Unaccompanied minors, temporary residence, age assessment, children's rights, deterrence

Abbreviations

CRC UN Convention on the Rights of the Child

DRC Danish Refugee Council/Dansk Flyktningehjlp

EU European Union

ERPUM European Return Platform for Unaccompanied Minors

IDP Internally Displaced Person

L37 Act amending the Immigration Act and the Integration Act (Revision of the rules on unaccompanied minor foreigners, etc.

LSF37 Proposal for Act amending the Immigration Act and the Integration Act (Revision of the rules on unaccompanied minor foreigners, etc.)

UN United Nations

UNHCR United Nations High Commissioner for Refugees

WPR "What is the problem represented to be"

Contents

1   Introduction

Unaccompanied minor asylum seekers made up almost a third of the total of asylum claims made in Denmark in 2016. Despite the drop in arrivals in 2017, unaccompanied children still make up a significant part of those seeking protection. Recommendations from the UNHCR emphasise the need to take child-specific considerations when dealing with the asylum claims of minors due to their particularly vulnerable situation, stating that they are "arguably in an even more precarious situation than children involved in other legal processes: they are in a strange environment, dependent on the intermediary of an interpreter, and taking part in a complex procedure that will determine their future"(UNHCR, 2017, 6) . In addition to these factors, asylum-seeking children are placed in an even more difficult place due to the different political identities they inhabit. In their comparative study of asylum seeking children in Norway and Denmark, Vitus and Lidén find that as both 'children' and 'asylum seekers', asylum-seeking children become "trapped in two political identity discourses" by falling under two different legislative and policy frameworks. While the political discourse surrounding children is defined by a focus on protection of the child and their rights and individuality, within the contemporary discourse on asylum seekers, scepticism, suspicion, concerns for national security and talk of a 'collective people' are more characteristic (Giner, 2007). It is at the intersection of these two discourses that unaccompanied minors find themselves.

Historically, Denmark has been a liberal force in regards to asylum policy. Not only was it the first country to sign and ratify the 1951 Convention Relating to the Status of Refugees, but its 1983 Aliens Act was at the time of its introduction hailed as the most liberal asylum legislation in the world (Gammeltoft-Hansen, 2017). In the subsequent decades, however, a series of restrictive policies and tightening measures have been implemented on the asylum field, changing the image of Denmark as a liberal front-runner to an inspiration to other European countries seeking restrictive asylum policies (ibid). Policies restricting access to family reunification, preventing 'misuse' of the asylum system, and allowing living conditions for asylum seekers to deteriorate has made the Danish immigration law one of the strictest in the EU (Vitus and Lidén, 2010). Asylum seeking children have not been unaffected by these changes. In Denmark, immigration control has become a prime political priority and the main instrument protecting children's rights, the Convention on the Rights of the Child has, according to Vitus and Lidén become "irrelevant to the

way in which Danish asylum politics is talked about and practically implemented" (2010, 77). This raises questions of whether the practices and policies that dictate the fate of asylum-seeking children in Denmark take into account the difference between being a child and an adult in the context of seeking asylum, and what the effects of being represented as primarily a 'child' or primarily an 'asylum seeker' have on how they are received.

1.1 Research Question

In this thesis I will explore how unaccompanied minors are represented within the Danish asylum system and the effects of this representation through an analysis of the reform made to the Danish Aliens Act in 2010, which revised the regulations relating to unaccompanied minors. Using the 'what is the problem represented to be' (WPR) method for policy analysis, I will explore the policies relating to age assessment, temporary residence and return in order to see how unaccompanied minors are positioned in the Danish context. The WPR-approach, developed by Carol Bacchi, seeks to reverse-engineer policy to examine not how a policy is created to solve problems, but rather how policy takes part in defining and potentially reinforcing problems. Bacchi argues that this is essential to analyse because "the way in which the 'problem' is represented carries all sorts of implications for how the issue is thought about and for how the people involved are treated and are evoked to think about themselves" (Bacchi, 2009, 1).

A post-structuralist lens will be applied during the analysis to inform the reasoning used and to further understand the relationship between representation, discourse, power and knowledge. I will pay particular attention to the hegemony gained by certain 'truths' and how this shapes the discourse and thereby the policies situated within it. Elements from Laclau and Mouffe's theory of hegemonic discourses will also be used to support the analysis and provide an understanding of the meaning that is given to the categories that are applied to unaccompanied minors. I will use their concept of the discursive struggle for universality over particularity to explain the effects that are produced when one category or identity is given priority over another.

In the analysis, I will use the findings from interviews conducted with professionals working with unaccompanied minors, whose work is affected by the policies

put forward by the Danish government, to strengthen the understanding of how the minors are treated within the system. From this exercise I will explore how those who surround the unaccompanied minors use their position to question, disrupt and potentially replace the way the issues concerning unaccompanied minors are represented. Through the work outlined here I will attempt to answer the following problem formulation:

Why does the emphasis on either the categories of 'child' or 'asylum seeker' appear to elicit different responses for unaccompanied minors within the Danish asylum system?

To answer this question, I will be applying the six sub-questions presented by the WPR approach to policy analysis. The questions are as follows:

- What's the 'problem' represented to be in a specific policy?

- What presuppositions or assumptions underlie this representation of the 'problem'?

- How has this representation of the 'problem' come about?

- What is left unproblematic in this problem representation? Where are the silences? Can the 'problem' be thought about differently?

- What effects are produced by this representation of the 'problem'?

- How/where has this representation of the 'problem' been produced, disseminated and defended? How could it be questioned, disrupted and replaced?

2 Method and Material

2.1 What's the problem represented to be?

This paper will take a qualitative approach to answer the problem formulation stated above. To analyse the relevant policy, the 'What's the problem represented to be'-approach (hereby referred to as WPR) will be used. This method for policy analysis was developed by Australian political scientist Carol Bacchi. She developed the method on the premise that "(1) we are governed through problematisations and (2) We need to study problematisations (through analysing the problem representations they contain), rather than 'problems'" (Bacchi, 2009, xiii). Her argument is that most forms of policy analysis are based on the presumption that the purpose of policy is to solve social problems. She argues, however, that "policies by their nature imply a certain understanding of what needs to change (the 'problem'), [which] suggests that 'problems' are endogenous - created within - rather than exogenous - existing outside - the policy-making process. Policies give shape to 'problems'; they do not address them" (ibid: x). The WPR-approach therefore seeks to look at policy in reverse by asking 'what is the problem represented to be in this specific policy?' instead of 'how does this specific policy address the problem?'.

> "Put briefly, the argument is that, in order to understand how we are governed, we need to examine the problem representations that lodge within policies and policy proposals. Rather than accepting the designation of some issue as a 'problem' or a 'social problem', we need to interrogate the kinds of 'problems' that are presumed to exist and how these are thought about. In this way we gain important insights into the thought (the 'thinking') that informs governing practices" (ibid: xiii).

Bacchi ultimately argues that "rather than reacting to 'problems', governments are active in the creation (or production) of policy 'problems'" and that it is therefore important to be aware of how and why certain issues become problems and others do not.

The WPR-approach to policy analysis presents the researcher with six questions, as presented in the introduction, that aim to reveal taken-for-granted assumptions, the issues that are not addressed in the policy, and the consequences certain

problem representations have. The method draws heavily on post-structuralist philosophy, and in particular on the work of Foucault. The notion of episteme, which invites the researcher to investigate the thoughts and worldviews that lie behind a representation, is central to the way the WPR-method approaches policy. From a Foucauldian perspective, normalising discourses shape practice and power in the real world. The only way of escaping the hegemonic knowledge determining these power structures is through the intellectual tools of archaeology and genealogy: To identify and expose how discourses have emerged and been normalised (Betts, 2009). The WPR approach to policy analysis employs these concepts and tools to address the assumed knowledge that attempt to govern us. Bacchi also references the Foucauldian concept of 'dividing practices' in which policy tends to pit groups against each other in order to encourage desired behaviour. The questions above also draw on the post-structuralist concepts of discourse, deconstruction, genealogy, and intertextuality. I will explore these further in the theory section of this thesis. The post-structuralist nature of this method makes it good for drawing attention to how actors, entities and things we take as a given, actually depend on how we construct them (Baylis et al., 2014).

I have chosen this method because it can help uncover taken-for-granted ideas that shape the policies concerning unaccompanied minors; it is a tool to look critically at the concepts and categories the policies introduce. In order to answer the problem formulation, it is relevant to examine how the subjects of a policy come to be seen in certain ways. The questions posed by the WPR method elicit responses that can help reveal an answer. In this paper, I will use the exercises presented by the WPR method to reflect on concepts and categories like 'asylum seeker', 'child', and even 'age'. These exercises are useful because the way that a 'problem' is represented and consequently dealt with impacts how the issue is thought about and how the people involved are treated, and are evoked to think about themselves.

2.2 Semi-Structured Interviews

To better understand how the use of categories like 'child' and 'asylum seeker' affects unaccompanied minors, I will supplement my policy analysis with interviews with professionals working with unaccompanied minors in the Danish asylum system. The qualitative research interview attempts to interpret the meaning of central

themes in the life world (the lived experiences and points of view) of the subject to gain qualitative knowledge on specific issues (Kvale and Brinkmann, 2014). Such interviews are not designed to gain quantitative information, but rather seek to obtain more nuanced accounts of different aspects of people's life world. A qualitative research interview thus seeks to cover both a factual and a meaning level (ibid). In the context of this paper, I will use the interviews to suggest how some of those working with unaccompanied minors experience the current representation of the 'problem'. This will also indicate how they work with questioning, disrupting and even replacing the current representation.

2.2.1 Interview Respondents

For the purpose of answering my problem formulation, I have conducted semi-structured interviews with three women working in different areas. However, all three work with unaccompanied minors. I chose the interviewees based on their expertise on different aspects of the situation of unaccompanied minors. The first interviewee is a former professional representative working for the Red Cross. She was selected for her experience working directly with unaccompanied minors. The second interviewee, a legal advisor for the National Council for Children, was selected to get insight into how the situation of unaccompanied minors compares to that of Danish children and how this fits into the work with unaccompanied minors. Finally, an advisor from the Danish Refugee Council's asylum division was contacted to gain the perspective of an organisation working with the overall immigration and refugee situation in Denmark. The interviewees are as follows:

- **The National Council for Children - Anna Marie Schurmann Carstens**

  Legal advisor at the National Council for Children, Anna Marie Schurmann Carstens, was interviewed about the Council's work with unaccompanied minors, and specifically about the Council's views on how unaccompanied minors are treated in comparison to children in general. The Council works to safeguard the rights of children and young people in Denmark, in particular regards to the UN Convention on the Rights of the Child. The National Council for Children is politically independent, but is administratively linked with the Ministry of Children and Social Affairs.

- **Red Cross Asylum - Mari Børnick-Sørhaug**

  Mari Børnick-Sørhaug - now in a new job - was interviewed in the capacity of former professional representative to unaccompanied minors coming to Denmark. The Red Cross Asylum is, on behalf of the state, responsible for providing personnel to follow the minors through their asylum procedure. The representative is responsible for ensuring that the interests of the child are protected throughout the procedure and provides additional support to the child. The Danish Red Cross mostly relies on volunteers to act as representatives. However, they also have a group of professional representatives. The professional representatives take on several cases at a time and are normally assigned to the cases where special circumstances require extra attention. I interviewed Børnick-Sørhaug about her impressions of how the asylum system receives unaccompanied minors, and to what extent the immigration authorities are able to afford the minors the support they need throughout the asylum process.

- **Danish Refugee Council - Sissel Swane**

  Sissel Swane is a legal advisor in the Danish Refugee Council's asylum department. The DRC's asylum department offers legal counseling in asylum centres to asylum seekers about the asylum procedure and about returns for asylum seekers who have had their applications rejected. Swane has worked specifically with asylum-seeking children. In her role as a legal advisor she visits children's asylum centres, where her task is to explain the asylum procedure and prepare the minors for the asylum interviews. The DRC's asylum department also offers assistance for those who want to complain to the authorities about the way their asylum case has been handled. I interviewed Swane about the DRC's work with unaccompanied minors and where they see issues within the policy framework.

2.2.2 Ethical Considerations

Kvale and Brinkmann (2014) outline four fields that are traditionally discussed in ethical guidelines for researchers. These are informed consent, confidentiality, consequences, and the role of the researcher. As all my subjects are informed of and have consented to the terms and purpose of the interviews as well as who will have

access to the material produced by the interviews, I will not spend time discussing the ethical considerations of the first three fields. The interviews are based on the subjects' own experiences working with unaccompanied minors. However, the fact that the interviews concern unaccompanied minors and not the subjects themselves means that the potential consequences arising from a feeling of openness and intimacy, which might lead a subject to disclose more intimate information than they might have liked, are not as prevalent as if I were to speak to unaccompanied minors directly. As my subject are involved with the issue in a professional rather than personal capacity, the issue of quasi-therapeutic relationships between the researcher and the subjects, which Kvale and Brinkmann raise concerns about (ibid), is unlikely to appear in this situation.

A more interesting ethical concern is the role of the researcher within the interview setting. As Kvale and Brinkmann point out, interviews are not everyday conversations between two equal partners. They create a power asymmetry between the subject and the researcher. The researcher is in a position of power compared to the subject, as it is the researcher who initiates and defines the conversation, the one who asks the questions and decides which answers to follow up on. The researcher is also the one who decides when to finish the conversation (ibid). Having control over the topic, questions and ultimately the interpretation of the answers, the researcher has the power to make the interview 'fit' to their agenda if they wish. It is therefore important to reflect on my own role as an interviewer and my own presumptions and expectations before undertaking interviews to ensure that my own biases do not colour the responses and interpretation of the responses in a significant way. To ensure this, the subject have all been given the opportunity to view and comment on the use of their statements in the final project to ensure that they do not feel misrepresented or misinterpreted. This has given them the opportunity to make any corrections or withdraw any information they do not wish to have included in the thesis.

2.3 Limitations

In order to answer my problem formulation, I have chosen to complete a policy analysis, specifically through the use of the WPR approach. This method has allowed me to discover the way specific policies take part in creating and reinforcing

'problems' and discover the origin of specific categories, subject positions and presumed 'truths' that exist within the way we are governed. However, the strict focus that the WPR approach has on how a problem is represented and its use of six clearly defined questions places certain restrictions on what can be discovered through the analysis. For example, the method places great importance on discovering the background for the representation. It asks what the assumptions making the representation possible are, how the representation has come about and how it has been defended and disseminated. The focus on the effects of the *representation* of the problem in the policy rather than just the policy itself, means that the method does not necessarily facilitate an exploration of the responses the unaccompanied minors are met with. Due to the stated aim of the paper being to investigate why certain responses occur rather than others, I have had to widen the scope of the research questions in such a way that I do not only examine the effects, assumptions and background of the representation of the 'problem', but also the effects, assumptions and background of the policies themselves. I believe that the interviews have particularly been useful to help make up for the restriction imposed by the method.

In regards to the interviews, it should be noted that the interview with Anna Marie Schurmann Carstens was conducted before the full scope of the assignment was decided. Due to the time it took to locate the relevant policy documents that became the basis for the analysis, the interview was conducted prior to defining the scope of the analysis. At that point in time, I still considered other parts of the Aliens Act as potential discussion topics. This meant that the questions I asked were not as specific to the policy reform that was selected for analysis in the end. This was also the case for the interview I conducted with Mari Børnick-Sørhaug from Red Cross Asylum. However, in this case I had the opportunity to conduct a follow-up interview at a later stage to ask clarifying and more targeted questions. Due to time constraints, this was not possible for the interview with Schurmann Carstens. I believe, however, that there is value in the data gathered from the interview and that it will serve to inform points in the analysis.

During the interview phase, the Danish immigration service (Udlæningestyrelsen) were also contacted to set up an interview. The request was denied. The addition of the perspective from the immigration authorities could have provided an interesting point of comparison to those who working as a watchdog controlling that

the unaccompanied minors are fairly treated. A perspective from the immigration authorities could have provided an insight into the considerations that are made when working with unaccompanied minors while following the policies and regulations originating at a higher political level. It could also potentially have provided a counter argument to those presented by in the other interviews. However, this is not sure. I would argue that this limitation does not greatly affect the overall findings, as I was able to get the perspective from Mari Børnick-Sørhaug whose work is also defined by the policies implemented on the political level. In her role as a representative working on behalf of the state, she inhabits a similar position that we would find the case workers at the immigration service - a street level bureaucrat as described by Lipsky (1980).

2.4 Empirical Material

To find the answer to the problem formulation posed in this paper, I will base my analysis on a set of different sources. The empirical data will be drawn mainly from the L37 reform of the Danish Aliens Act passed in 2010 and the LSF37 proposal for the reform. The reform relates specifically to the policies concerning unaccompanied minors and implements changes to temporary residence, family searches, repatriation, age assessments and designation of representatives. It was proposed by then immigration minister Birthe Rønn Hornbæk the 28th of October 2010 and adopted the 21st of December 2010. The questions posed by the WPR-approach will be applied to these two documents. Additionally, the interviews conducted with professionals working within the field presents data that will be used to support and further the analysis. I will also collect data from reports, legal documents, newspaper articles and documents from legal debates on legislation.

3   Theoretical framework

I have chosen to take a post-structuralist approach to my analysis to be able to deconstruct the narrative presented in the policies and to uncover what and why certain realities are presented. The post-structuralist framework was chosen because it has played a significant role in defining the WPR method that will be used in the analysis. As I will show in this section, post-structuralism does not only present

a way of understanding why certain 'truths' are created and accepted over others and what this means for society. It also equips the researcher with tools to discover these 'truths'. I will also implement Laclau and Mouffe's discourse theory to further investigate the categories that occur in the policies and discourse on unaccompanied minors and the role these play in identity building. In the following chapters, I will outline some of the core principles of the aforementioned theories and explain the concepts that I will use to inform my analysis.

3.1 Post-structuralism

"Poststructuralism reveals how language itself helps constitute reality"
(Agger, 1991, 35).

Betts (2009) refers to post-structuralism as a school of thought within critical theory as it shares several ideas with the Gramscian and Frankfurt approaches. Similarly to these schools of thought, post-structuralism argues that there is a relationship between power and knowledge and the non-neutral nature of concepts, categories and ideas: Certain concepts, categories and ideas become dominant and gain hegemony over others. However, what separates post-structuralism from the other schools is its pessimistic views on the prospects of emancipation from this form of hegemonic knowledge. Poststructuralists see this hegemonic structure as deeply entrenched and constitutive of social actors. Post-structuralism seeks, instead, to question some of the assumptions we find in other theories and in the words of Robert Cox "not take the world as it finds it" (cited in Betts, 2009, 35).

When considering which method to choose, I found post-structuralist ideas useful to inform my analysis. In this thesis, I will use post-structuralism to explain why the different categories used to define unaccompanied minors matter. According to Baylis et al., post-structuralism is concerned with "distrusting and exposing any account of human life that claims to have direct access to 'the truth'" (2014, 6). These concerns encourage the researcher to question 'truth' that are otherwise taken for granted by other theories. Foucault, who has had a great influence on post-structuralist thinking, argued that knowledge is not immune to the workings of power. It is rather shaped by power and reinforced by current power relations. Thus, existing knowledge should be examined and questioned to reveal what assumptions we make and how these assumptions have been created (Ibid).

Post-structuralists argue that language is essential to the way we understand the world. Because the words we use are not neutral, the vocabulary we use have implications - particularly in a political setting. Using one word instead of another can elicit completely different responses to a situation. Baylis et al. present the example of how using the word 'genocide' as opposed to 'tribal warfare' to describe what is happening in a country, can have a significant impact on how the international community approaches the situation. Post-structuralists therefore argue that things cannot have objective meaning independently of how we constitute them in language because language produces meaning (Ibid). Within this line of thought, the meaning language creates is a product of the discourse it is situated in. In other words, how a situation is described, understood and assigned meaning through language depends on the context and world views that surround it.

Within post-structuralist theory we also find the concept of genealogy. Genealogy asks what political practices have formed the present and which alternative understandings have been marginalised and often forgotten (ibid). This concept will be further explored through the third and fourth question from the WPR approach in the analysis, which look at the how a representation has come about and what the silences within a representation are. This is also linked to another central concept within post-structuralism - intertextuality. Intertextuality was coined by Julia Kristeva. It describes how we see politics as made up of texts that refer to other texts while still maintaining its uniqueness. Martin argues that one of intertextuality's most practical functions is the "(re-)evaluation by means of comparison, counter-position and contrast" which challenges cultural hegemony (2011, 149). Intertextuality is also relevant to the two WPR-questions mentioned above, as it allows us to see what text the analysed policy draws on and thus, how a certain representation has been created. The WPR-question of what silences are present is also relevant in this context, as the concept also urges us to ask what is not being mentioned and why.

French philosopher Jacques Derrida has come up with the theory of deconstruction, which has become a fourth central concept within post-structuralism. He describes how language is made up of dichotomies in which a hierarchy is created between words and concepts favouring one over the other. Deconstruction explores how the tensions and contradictions between the hierarchical order are assumed. In poststructuralism, the concept of binary opposition, in which one term is seen as the

opposite of and usually superior to another, are problematised and exposed. This is to show how such a hierarchical dichotomy tends to serve a certain group and disadvantage others (Encyclopedia Britannica, 2017). In this paper, the concepts of deconstruction and binary opposition will be used when exploring which terms and categories are used to define and represent the problem.

As we have seen, post-structuralism can provide an understanding of the implications of the categories that are applied to unaccompanied minors can have. The theory calls for an exploration into the assumed knowledge that is presented and urges the researcher not to take this knowledge for granted, as it is interlinked with power.

3.2   Laclau and Mouffe's Theory of Discursive Hegemony

Laclau and Mouffe's discourse theory will be used in this paper to look at the way hegemony of categories and definitions is created through discursive struggles for universality over particularity and what this means for unaccompanied minors. I will specifically look at Laclau and Mouffe's ideas on creation of hegemony within discursive fields through the competition of different discourses as described by Lidén and Vitus. They applied this concept to the discourses about asylum-seeking children as both 'asylum seeker' and 'child' to see how one political identity is dominant compared to the other. According to Laclau and Mouffe's theory, one discourse can become dominant over another through its claims of universality over the particularity of other discourses. In the fractures between these contestations, certain subject positions are created (Vitus and Lidén, 2010; Laclau, 1989) . Through their eyes, the struggle for hegemony is a discursive issue of competing discourses and antagonisms, which are centered in questions of political identity. Their struggle for hegemony in terms of universality over particularity means that some values or identities are transcendent and abstracted from time and space. Others are separate, concrete, space-time bound, and thus subordinate to the universal ones. The discursive struggle is often between two identities that can appear to be mutually exclusive. However, Lidén and Vitus argue that:

> "Separate values or identities that claim distinctiveness cannot do so
> without implicit reference to that from which they claim to be distinct.
> The interdependence creates an ambiguous relationship between the two

often antagonistic identities" (Ibid: 64).

According to Laclau's theory, the relationship between the universal and the particular cannot be resolved because "surpassing an ambiguity means going beyond its poles, thus dissolving the identities inherent in the relationship..." (cited in Lidén and Vitus 2010, 65). There is, however, the possibility for continuous negotiation - playing with both sides of the ambiguity and producing results preventing any of them from prevailing in an exclusive way. (Laclau, 1989).

This, according to Lidén and Vitus, is crucial to understand the relationship between 'asylum seeker', which is created through antagonistic struggles between inclusion and exclusion from the nation state, and 'child', which is created in discourses about children's vulnerability and children's rights. Thus, the struggle between universality versus particularity of the two discourses in relation to unaccompanied minors is important to discuss, as they argue that their success in the struggle may have different outcomes in different historical, social and political contexts. According to Jørgensen and Phillips, this is the starting point for discourse theory.

> *"[N]o discourse can be fully established, it is always in conflict with other discourses that define reality differently and set other guidelines for social action. At particular historical moments, certain discourses can seem natural and be relatively uncontested. That it is to this phenomenon that the concept of objectivity refers. But the naturalised discourses are never definitively established and their moments can again become elements and thus objects for new articulations"* (Jørgensen and Phillips, 2011, 23).

Jørgensen and Phillips describe Laclau and Mouffe's nodal points of identity as master signifiers which different discourses fill with different meaning. Using the example of 'man' as a nodal point, they explain how it is linked through discourse to other signifiers creating links of equivalence. 'Man' is, for example, linked to signifiers such as 'aggressive' and 'football' within the mainstream discourse. These links are also created in opposition to other links, like 'woman', which is linked with 'passive' and 'cooking' within certain discourses (Jørgensen and Phillips, 2011). These links create behavioural instructions to people who identify with these nodal

points, defining what they are, what they are not, what they can do and what they cannot do. Laclau and Mouffe the argue that the subject is something because it is not another thing. But what the subject is can change as the discourse changes. This means that depending on the context of the discourse, the subject's identity can be widely different (ibid). Jørgensen and Phillips go on to argue how this affects subjects within a group. They argue that group formation signalises a reduction of possibilities, since group formations happen through a process in which some possibilities of identification, or nodal points, are being lifted up while others are ignored. This obscures differences within groups.

> *"Group formations are always closures in an undecidable terrain, and as with discourse in general, they only work by excluding alternative interpretations. In discursive group formations, then, 'the other' - that which one identifies oneself is excluded, and the differences within the group are ignored. Thereby all the other ways in which one could have formed groups are also ignored"* (Ibid, 20).

Because a group is not socially predetermined, it does not exist until it is constituted in discourse. Therefore we must ask why some groups are created within a discourse and question the basis they are created on, while other potential groups are suppressed or ignored and what this means for representation.

4 Unaccompanied minors in the Danish asylum system

In 2017, a total of 462 unaccompanied minors applied for asylum in Denmark - a drop from the previous years, which saw 1184 (2016), 2144 (2015), and 818 (2014) unaccompanied minors submit their asylum applications. As a minor seeking asylum in Denmark, you are expected to meet the same requirements as an adult to have your claim granted. In other words, unaccompanied minors have to prove that they have a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion" as outlined by the 1951 Convention and Protocol relating to the Status of Refugees. However, as a child you are entitled to special considerations and benefits throughout the asylum procedure. These include access to a representative, education and a speedy processing of the claim. Unaccompanied children are also placed in special asylum centres for children and they are generally not transferred to another country if they have been registered there before arriving in Denmark, as per the Dublin Regulation (Bendixen, 2016a). As Denmark is a signatory of the Convention on the Rights of the Child (CRC), Danish immigration authorities should also take into consideration the best interest of the child when assessing the asylum claim of a minor, following Article 3 of the CRC. Additionally, unaccompanied minors also have an additional possibility of gaining residence if they have had their asylum application rejected on the grounds mentioned above. The Danish Aliens Act outlines in §9c3.2 an option of granting temporary residence to the minors if they upon return to their country of origin would be placed in an "emergency situation".

Put together, these regulations are in place to ensure that minors going through the asylum system are given special care due to their position as children. In this section, I will further explain some of the policies and practices that affect unaccompanied minors and how they are handled in the reform of the Danish Aliens Act in 2010.

4.1 Temporary residence for unaccompanied minors

Unaccompanied minor seeking asylum in Denmark have an additional opportunity to get asylum that is not open to adult asylum-seekers. The Danish Aliens (Con-

solidation) Act §9c 3 states as follows:

> *"A residence permit may be issued to - (i) an unaccompanied alien under the age of 18 who has submitted an application for a residence permit under section 7 if, from information available on the alien's personal circumstances, there are particular reasons to assume that the alien should not undergo asylum proceedings and if there is reason to assume that the alien will be without any family network or without any possibility of staying at a reception and care centre and will in fact be placed in an emergency situation upon a return to his country of origin or former country of residence. The residence permit cannot be renewed beyond the alien's 18th birthday. (ii) an unaccompanied alien under the age of 18 whose application for a residence permit under section 7 has been refused if there is reason to assume that the alien will be without any family network or without any possibility of staying at a reception and care centre and will in fact be placed in an emergency situation upon a return to his country of origin or former country of residence. The residence permit cannot be renewed beyond the alien's 18th birthday."*

This provision of the law is generally applied (i) to unaccompanied minors who are deemed too immature to undergo the asylum procedure or (ii) to unaccompanied minors who do not have any living relatives or contacts in their country of origin to which they could rely on if they were returned to that country. The minor is, under this provision, given permission to stay in Denmark on a one-year basis. The permit is generally renewed if the conditions have not changes in the meantime or the minor has not turned eighteen.

The number of unaccompanied minors who are granted temporary residence under §9c section 3 (i and ii) is relatively low. In 2014 and 2015 respectively, one and 20 minors were judged to be too immature to undergo the asylum procedure. Only two and five minors were given temporary residence due to special circumstances (e.g. no network) (Refugees.dk, 2016). However, it has been pointed out that no professional assessment of the child's maturity is undertaken before making the decision. There have been cases where a child psychologist or psychiatrist have evaluated the child after going through the procedure and have judged them to be too immature (Bendixen 2016). Paragraph 9c section 3.2 applies to those who do not

have any parent or adult family member in their country of origin willing or able to act as their guardian. Bendixen points out that the low numbers of unaccompanied minors granted this type of residence is partly due to the authorities' ability to refer the minor to any relative mentioned in the asylum interviews, even though the minor might not have any contact with this person. The temporary residence expires as soon as the minor turns eighteen, and residence is generally not extended unless they can prove that they have acquired a strong connection to Denmark during their stay (Bendixen, 2016a).

Temporary residence on the basis of §9c section 3.2 is only granted after the minor has already received a rejection on their application for asylum as outlined by §7,1 (establishes the right to protection under the Refugee Convention) or §7,2 (outlines the principle of non-refoulement) (Aliens (Consolidation) Act, 2013). The provision means that children who have had their initial asylum claim rejected are not returned to their country of origin until they reach the age of maturity or unless they do not have a caretaker or public care facility receive them, as this would leave them in a vulnerable position and in an "emergency situation" (L37, 2010). The reform in 2010 made several changes to this section of the Aliens Act. Firstly, it limited the time scope of the residence permit to one year at a time. Residency on the basis of §9c3.2 was previously given for two years with prospects for permanent residency. However, the revision of the law limited the possibility for renewal stating that the permit cannot be extended past the alien's eighteenth birthday. Secondly, the earlier version of the law stated that a residence permit could be issued to an unaccompanied minor "if there is reason to assume that in cases other than persecution and refoulement the alien will in fact be placed in an emergency upon return to his country of origin" (Lemberg-Pedersen, 2015, 14). Lemberg-Pedersen calls attention to this difference and how the previous wording acknowledged that unaccompanied minors who were returned to their country of origin could experience emergencies other than persecution or refoulement, making it more difficult for them to be returned. The new wording, however, allows for the possibility of returning minors to their country of origin provided there is family or care facilities to receive them (ibid).

4.2 Age assessments

The standard practice in Denmark is to complete an age assessment in cases where there are doubts about the stated age of the minor. The Danish Aliens (Consolidation) Act §40c and Article 25 of the EU Asylum Procedures Directive give the police and the Danish immigration authorities the right to ask the person claiming to be a minor to take part in an age assessment to determine the status of the age asylum seeker. The assessment is only completed with the consent of the asylum seeker, however, it can hurt the minor's credibility if they refuse (Udlændinge- og Integrationsudvalget, 2017; Bendixen, 2016c). The methods for assessing the age of an unaccompanied minor varies from country to country. They can be undertaken through consideration of documents, x-rays of the hand/wrist, collarbone, and/or dental x-rays or examinations, assessments by social workers or paediatricians, or through psychological tests and evaluations (Brassien, 2017). However, none of the methods allow an accurate determination (Frontex, 2010).

In Denmark, the main method of age assessment is the radiological examination of wrists, hands and teeth. It is performed by the Department of Forensic Medicine at the University of Copenhagen. An examination of the asylum seeker's body is also carried out by a doctor. Based on these examinations, the doctor estimates the most probable age of the asylum seeker. With this information, the immigration authorities reaches a conclusion of whether to adjust the asylum seeker's stated age. The use of this method has been heavily criticised due its lack of accuracy. Critics have pointed to the need for a holistic approach that takes into account the asylum seeker's level of mental maturity as the consequences of identifying someone wrongly as an adult could be severe (Bendixen, 2016c; Smith and Brownlees, 2011).

> *"For a juvenile to be wrongly identified as an adult can have life-changing consequences when he or she should instead be afforded consideration of his/her maturity and capacity, guarantees of due process and support for reintegration. To be processed as an adult puts the child at increased risk of abuse in a system that makes no consideration for the child's situation, age or maturity. For a child below the age of criminal responsibility to be mistakenly identified as a juvenile means entry into the formal juvenile justice system when he or she should have been entitled*

to special care and protection. Therefore realistic determination of age is vital to ensuring that children and juveniles are identified and treated appropriately" (Smith and Brownlees, 2011, 1).

As the quote illustrates, being treated as an adult also has implications for children's ability to access welfare services and support.

The use of medical age assessments on unaccompanied minors had been part of Danish practice since before the 2010 reform. However, the revision introduced the use of age assessments as a part of the Aliens Act. The reform gives Danish police and immigration services the authority to require the participation in an age assessment.

5   Analysis

5.1   What's the 'problem' represented to be in a specific policy?

On the 21st of December 2010, the Danish parliament approved a revision of the Aliens (Consolidation) Act as proposed by the then-minister of integration Birthe Rønn Hornbæk from the conservative-liberal party Venstre. The revision included, amongst others, the following changes:

- Temporary residence under §9c section 3 will no longer be extended to the unaccompanied minor once they reach the age of eighteen.

- A provision will be included in the Aliens Act entitling the police and the immigration services to require that an unaccompanied alien who claims being under eighteen years old participates in a medical assessment aimed at identifying the alien's age.

- The Immigration services will only with the consent of the child initiate a search for the child's parents or other familial network, unless the child can be received by a reception or care facility in their home country or country of previous residence.

The stated overall aim of the revisions is to ensure that the entitlements granted to unaccompanied minors are only given to those who truly deserve them and, in the long term, to decrease the number of unaccompanied minors without valid claims to asylum coming to Denmark (LSF37, 2010). In order to reach these goals, the policies above were implemented. Within the overall policy change, we can discover how there are several problem representations present relating to each of the changes. As described earlier, a problem representation is the implied 'problem' that is in need of 'fixing'.

Working backwards from the first of the changes implemented by the revision, we can see that it seeks to restrict the duration of residency given to unaccompanied minors who are unable to return to their country of origin due to the absence of a caretaker or network upon return. As outlined previously, the residence given

through §9c 3.2 is reserved for unaccompanied minors. Before the revision was implemented in 2011, the residence permit given through §9c 3.2 was typically granted for two years at a time with the intention of eventually granting permanent residence. It could be extended after the minor has turned eighteen. In the proposal for the revision, it was suggested that this in practise entails that the person in question continues to be considered an unaccompanied minor after their 18th birthday. The new regulation restricts the residency to apply only to those who are children for as long as they are children (L37, 2010). The problem representation we can extract from this change - i.e. the problem that needs fixing - is thus that 'aged-out' asylum seekers are being treated as minors even after they turn eighteen years old.

The second change mentioned above is aimed at ensuring the authority of the police and immigration services in enforcing age assessments. We have seen how medical age assessments are intended as a tool to discover the most likely age of a person when there are doubts about the actual age. Assessment are also done in cases where a person claims to be substantially older than they appear. But they are generally used to assess whether a person who claims to be a minor is over or under eighteen. The practice of age assessment was present previous to the changes made in 2010, and the right to require the assessment was inferred in different parts of the law (LSF37, 2010). However, the revision establishes the practice as a part of the Aliens Act and gives them concrete authority to require participation in the assessment. The new regulation thus strengthens a measure that is in place to ensure that only those who are minors get access to the entitlements they are due. We can infer from this a representation of the problem as asylum seekers attempting to abuse the system by pretending to be underage.

Finally, the third change I will be looking at reduces the responsibility of the state to implement a search for the family of unaccompanied minors. It introduces reception and care facilities as an alternative to allowing unaccompanied minors who do not qualify for asylum and who are without a parent or familial network, to stay until they reach the age of maturity. The previous version of the law required Danish authorities to complete a search for the family of rejected unaccompanied minors with or without their consent (LSF37, 2010). It was argued in the revision proposal that many of the unaccompanied minors coming to Denmark were sent by their parents and consequently knew where they were, but had been told not do disclose this information to the immigration authorities. It was thus argued that

looking for family members that the minor did not want the authorities to find was a waste of time and resources.

Returning children to their country of origin without the assurance of having a parent or guardian receive them would previously have placed the child in a state of emergency, which they were (and are) protected from in §9c3.2. At the time of the revision, however, the ERPUM pilot project (which will be discussed at length in the following sections) was underway to investigate the possibilities of setting up reception centres for unaccompanied minors in their country of origin. European states could return those who did not meet the requirements for asylum to such centres (Lemberg-Pedersen et al., 2013). The pilot has since been abandoned, making this provision less relevant today. However, revival of similar plans have occurred in more recent years, meaning that it could again become pertinent (Bendixen, 2016b). The problem that this policy aims to solve is that of Denmark taking an unnecessary responsibility for children who 1) do not wish to cooperate in locating family members and 2) do not qualify for asylum and could be transferred back to their country of origin. It can thus be looked at as an issue of wasted resources spent on people who neither need them nor deserve them.

In the proposal leading to the policy reform, there are several references to the potential 'signal value' ('signalværdi') of the changes. It is argued that the changes, which restricts access to residence and other resources, will have a great preventative effect for those who send alleged unaccompanied minors to Denmark to seek asylum. It is maintained that this will reduce the number of alleged unaccompanied minors traveling to Denmark to seek asylum in the long run. This focus on sending a message to future asylum seekers indicates that there is a perceived problem with the way the Danish asylum system is viewed by asylum seeker, and in particular how it is viewed as easy to gain asylum or even abuse the system.

Together, these changes represent a tightening of who is 'deserving' of and thereby given access to protection in Denmark. They also present the previous asylum regulations as too generous and easy to take advantage of, by allowing 'aged-out' minors and minors who have family or access to alternative care in their country of origin to stay and by allowing potentially adult asylum seekers to access entitlements owed to unaccompanied minors. From this, we can draw the conclusion that the overall problem representation we find in the policy revision is that granting asylum to asylum seekers who are not entitled to and 'deserving' of specific

rights and protection is placing an unnecessary burden and responsibility on Danish resources; This presents Denmark as an attractive destination for future asylum seekers.

5.2 What presuppositions or assumptions underlie this representation of the 'problem'?

The second part of the WPR-method calls for an assessment of the presuppositions and assumptions that underlie the problem representation and the premises that the representation(s) are built on. In this section I will examine how categories and groups are created by taken-for-granted assumptions in the way the problem is presented. The first problem representation that was identified within the policy reform presented 'aged-out' asylum seekers that are given rights as children even after they turn eighteen years old as the issue that should be fixed. This representation builds on the distinction between two groups of people. In this problem, there is a clear divide between 'child' and 'adult'. The adult or 'aged-out' asylum seeker is constructed as receiving protection that he is no longer entitled to. The distinction between child and adult here creates a separation between 'deserving' and 'undeserving' asylum seekers. Unaccompanied asylum seekers who are under eighteen are given access to resources and rights that are denied to their adult counterparts. Because they are children, they are seen as needing more support and as unable to take care of themselves if they were to be returned to their country of origin. However, before the change, the special residency offered to unaccompanied minors would continue to be in effect even after they turned eighteen. The revision challenges this practice. It states that there is no purpose in continuing to offer protection to an 'aged-out' minor, considering how the basis for the permit was that the minor was a part of a "particularly vulnerable group, which is no longer the case when the person concerned becomes an adult."(LSF37, 2010, 5). This argument builds on the premise that once the person concerned turns eighteen, they are no longer in the same position as they were before. It builds on the premise that there is an inherent difference between being over and under eighteen.

It is relevant to look at the discourse on age and childhood in this context. As a signatory to the CRC, Denmark has accepted the convention's definition of 'child' as any person under the age of eighteen. The significance of this age has

since the beginning of the last century become an established point of adulthood, as precise age has taken on social value in relation to law (Smith and Brownlees, 2011). However, in accordance with post-structuralist thinking it is relevant to explore whether this is the only way we can view age and the stages of life.

The UN has operated with a term that challenges the clear distinction between 'child' and 'adult'. It uses the category of 'youth', which is applied to those between fifteen and 24 years old. This category has been used to call for development of specific youth policies that address the needs of young people who are in particularly vulnerable situations in this important stage in life (Gladwell and Elwyn, 2012, 17). Smith and Brownlees (2011) also point out that contemporary studies on the meaning of 'childhood' describe the stage as a social construct that changes over time and across borders. They show that in this context, the western idea of 'child' and 'adult' could vary considerably from the Afghan or Eritrean definitions, and that an eighteen-year-old, who is viewed as an adult in most of the West, might not yet be considered an adult in other countries. The chronological presentation of age and stages of life that is common in Western countries, is not applicable in all countries. This means that using Western standards for adulthood to justify the return of an eighteen-year-old to a place that does not subscribe to the same definition - and expect them to function as an adult in that society, could have serious implications for the person concerned.

Additionally, Smith and Brownlees point out that "a justice approach to the minimum age of criminal responsibility (MACR) is not based in reality upon children's normative moral agency and responsibility. Instead, forces of social construction influence the limits, and dominant ideas about children's competence are translated into precise legal age limits that mark the boundaries of childhood and adolescence" (2011, 2). In other words, the age of maturity is set as a social standard for everyone, regardless of their mental capacities. This understanding of age, where rights and responsibilities come into play at specific ages, does not necessarily reflect the realities of decisions and levels of responsibilities of which young people are capable. Studies have shown that the level of functioning are not universal, and that factors such as gender, class, culture, ethnicity and age play a role in determining children's capabilities (Settersten and Mayer, 1997). This means that although many people can generally be treated as adults and be expected to live up to the responsibilities that come with adulthood once they reach the age of eighteen, this

is not true for everyone.

A non-chronological approach to age in relations to child asylum is presented by the UNHCR guidelines, which state:

> "[...]Being young and vulnerable may make a person especially suscepti-
> ble to persecution. Thus, there may be exceptional cases for which these
> guidelines are relevant even if the applicant is 18 years of age or slightly
> older. This may be particularly the case where persecution has hindered
> the applicant's development and his/her psychological maturity remains
> comparable to that of a child." (UNHCR, 2009, para7).

These considerations supports the understanding that, in certain cases, those who are over eighteen should not be excluded from the 'particularly vulnerable group' that is the basis for the residence permit given to unaccompanied minors under Danish law. The presumption that being over eighteen automatically disqualifies you from being in this group implies that a significant part of your identity changes overnight instead of resulting from a gradual transition. A strict view on who is a child and who is an adult can lead us to ignore the nuances of growing up and how the level of maturity varies from person to person. In relation to unaccompanied minors, the premise that the problem representation builds on draws particularly strict lines between who is considered a child, and thereby 'deserving', and who is considered an adult and thus 'not deserving'.

By introducing a rigid cut-off for when the residence permit accorded to un-accompanied minors on the basis of §9c3.2 expires (i.e the 18th birthday), it is implied that the person should from that day be able to take care of themselves and is therefore no longer 'deserving' of protection. This is the case even though conditions for the person in question are unlikely to have changed overnight. The person in question is only given protection as long as the 'child' category is applicable. The moment it the person turns eighteen, all the signifiers that relates to the 'child' nodal point, which were identity markers the day before, disappears. Rose and Miller reflects on this power to divide people into groups, saying "power is not so much a matter of imposing constraints upon citizens as of 'making up' citizens capable of bearing a kind of regulated freedom" (cited in Bacchi, 2009, 58).

In this light, Derrida's concept of binary opposition can explain the hierarchy that is created within this assumption. In the context of who is entitled to special

rights and services within the asylum system, 'adult' and 'child' are presented as opposites of each other. They are seen as mutually exclusive, and 'child' is in this context seen as superior to 'adult'. If we accept the fact that 'adult' and 'child' are each other's opposites, we should still question whether the signifiers that follow these nodal points are then also seen as mutually exclusive. As established in the problem formulation, the main signifier following the 'child' nodal point, is 'deserving', as in deserving of protection. Signifiers like 'vulnerable' and 'fragile' can also be added to the terms related to the 'child' nodal point. Seeing 'adult' as the opposite of 'child' would then imply that its signifiers are 'undeserving', 'able' and 'secure'. This representation of adults can produce detrimental effects for asylum seekers, and particularly those whose identities are redefined overnight, whether by turning eighteen or having their age adjusted following an age assessment. This will be discussed further as I assess question five of the analysis.

5.2.1 Belonging and respect for the home

The representation of the problem as an issue of taking responsibility for people who the state does not need to take responsibility for, builds on a premise that people belong to certain places. It rests on an assumption of one home. Asking unsuccessful asylum seekers to return to their country of origin either as minors or once they turn eighteen, equates to sending them where they belong. Gibney explores this assumption as a core value of the ERPUM project, a cross-national effort to explore options for creating reception centres for unaccompanied minors in sending countries. As mentioned earlier, the ERPUM project was initiated around the same time as the Danish policy reform, which included the possibility of relocating unaccompanied minors without family network to reception centres in their country of origin. Gibney explains that ERPUM argument of the importance of the 'respect for home' is presented as ethically defensible as it returns people to where they *should* be.

> *"Home here is conceptualised, in the first instance, as one's country of citizenship, valued in part because of the specific cultural and national context it provides [...] ERPUM is morally respectable, then, because it enables children to reconnect with their homeland, their culture, national history and environment"* (Gibeny in Lemberg-Pedersen et. al. 2013,

25)

He goes on to describe that the concept of belonging that ERPUM goes by, is not limited to citizenship but also relates to family relationship.

> "ERPUM might, then, be defended as a kind of family reunification in reverse. Just as states often make provision for families to be reunited by allowing immediate relatives of immigrants to enter, ERPUM unifies families through return or expulsion. In both cases, the importance of family bond is affirmed by state action" (ibid: 25).

This sentiment is also present in the revision of §56a, section 9 within the policy which deals with the search for family members and possibility of sending unaccompanied children to care facilities in their home country should the family not prove possible to locate.

The premise that people belong to specific places is explored by several other scholars. Malkki uses Appadurai's work on territorialised cultures to question what it means to be rooted in a place and how this confines people. She points out that within the discourse on territorialisation, the same terms used to describe physical territory are often used to describe the people residing on it, e.g. "the land rose in rebellion" meaning "the people rose in rebellion" (Malkki, 1992, 26). She also point out that non-discursive practices symbolically link people to places.

> "It is not uncommon for a person going into exile to take along a handful of the soil (or a sapling, or seeds) from his or her country, just as it is not unheard of for a returning national hero or other politician to kiss the ground upon setting foot once again on the 'national soil'. Demonstrations of emotional ties to the soil act as evidence of loyalty to the nation. Likewise, the ashes or bodies of persons who have died on foreign soil are routinely transported back to their 'homelands,' to the land where the genealogical tree of their ancestors grows. Ashes to ashes, dust to dust: in death, too, native or national soils are important" (Ibid: 27).

This importance put on the 'national soil' and 'homeland' and linking of people to soil strengthens the belief that people are somehow not fully themselves when

not at 'home'. The premise that people belong to specific place is, according to Malkki, often described through botanical metaphors, in particular with reference to 'roots'. She argues that people are often thought of, and think of themselves, as being rooted in a specific location and deriving their identity from that rootedness. This metaphor is extended to talk about people on the move. Migrants, and refugees in particular, are, within this view, seen as having been uprooted in a disorderly fashion by being transported to another location where their roots are left broken and dangling and threatening to wither. They lose part of their identity by being separated from their root (ibid).

Within this narrative, the act of returning unaccompanied minors once they are perceived to be taken care of by family or care facilities or is old enough to take care of themselves, becomes morally defensible. They will be returned to where they belong and where they can reconnect with their roots. The problem represented in the policy revision concerns what responsibility Denmark has to protect unaccompanied minors before and after they turn eighteen. The assumption that asylum seekers do have their roots and belong in another country, becomes an argument for Denmark not having a moral responsibility for the minors if they can be returned to their country of origin without violating the *non-refoulement* principle.

5.2.2   Re-branding Denmark

Finally, the assumption of 'signal value' should be addressed. The problem representation raises the issue of the previously 'liberal' Danish asylum system appearing attractive to 'undeserving' asylum seekers. By introducing new policies that restrict access to special rights and protection, the reform aims to reduce the number of unaccompanied minors entering the country. This form of indirect deterrence is based on push and pull factors that influence migration flows. In particular, the representation is based on the assumption that conditions in the receiving country are a strong pull factor. In other words, the previous policy that allowed minors with residency on §9c3.2 to stay after their 18th birthday and other more 'liberal' policies are within this representation seen to attract asylum seekers specifically to Denmark. Gammeltoft-Hansen (2017) points out that such policies do not legally or physically block access to asylum, like other forms of deterrence. Instead, they restrict access to rights and benefits for asylum-seekers and refugees who have al-

ready arrived to discourage further arrivals. The solution to the assumed problem is that by making Denmark appear like an unattractive country for unaccompanied minors or those who claim to be unaccompanied minors, fewer will choose it as their destination.

Studies have shown, however, that in the case of asylum seekers, the push factors leading to migration are generally more important than the pull factors (James and Mayblin, 2016; Brekke and Brochmann, 2014). According to Igesund, the pull factors that tend to matter to the asylum seekers relate more to the networks they have in the destination country than to the asylum policies of the country (Igesund, 2015). Deterrence measures have, in some cases, proven to have a visible effect on the numbers of asylum seekers a country receives (Gammeltoft-Hansen, 2017). However, Møkkelgjerd (2017) explains that in order for signal policies to be an effective communication tool to asylum seekers, very restrictive measures need to be taken. Such restrictive measures could in turn have severe consequences for the asylum seekers who are already in Denmark, and often have a negative effect on human rights obligations (Gammeltoft-Hansen, 2017).

5.3   How has this representation of the 'problem' come about?

Having explored the categories and premises which the problem representation takes for granted, the next step is to look into how the representation of the problem and its premises have come to be considered so matter-of-fact. As we saw in Jørgensen and Phillips' argument earlier, certain discourses seem natural and uncontested at certain historical moments. However, naturalised discourses are never fully established, and their dominance can change by being confronted with conflicting discourses that present other guidelines for social action (Jørgensen and Phillips, 2011). In this section I will explore the genealogy of some of the discourses, categories, nodal points and premises that seem naturalised and which enable the creation of the problem representation. Through this exercise I wish to discover how this representation has become the dominant one and which competing discourses have existed before.

5.3.1 Defining childhood

Starting with the concept of child and childhood that is used in the policy, it is pertinent to look back at how the discourse on childhood and children has developed. Today, the way we view children and childhood, and how it relates to adulthood, might seem intuitive and natural. However, a brief genealogical exploration of these concepts show how the 'truths' that the representation is based on has been constructed through specific discursive and non-discursive processes. Cunningham (2005) has studied the development of the Western conceptualisation of childhood from the sixteenth century to today. He describes how children for centuries have been considered as valued and vulnerable for various reasons. Children in the West were historically seen as an economic asset. In the last century, however, there has been a significant change in the way childhood is perceived. Since the introduction of child labour laws, the child has become a 'sacred being', innocent and untainted by the original sin. The perception emerged that all children should be entitled to a childhood that is separated from the adult world (Giner, 2007; Cunningham, 2005).

Cunningham goes on to argue that there has been created a common opinion that children are only children if their life experiences accord with a particular set of ideas about childhood, making it even more important to protect the child from the adult experience. Vitus and Lidén describe how following the development of this notion of 'sacred childhood' parents were initially expected to take full responsibility for the protection of it. However, due to concerns about parental capabilities, state protection of children became a major policy aim. It took over the discursive struggle between the competing attitudes. The view that children needed to be treated as individual right holders with particular rights became the common view. By the course of the 20th century, the state had become the ultimate protector of a proper childhood (Vitus and Lidén, 2010; Giner, 2007). In 1989, the state responsibility over the child was formalised in the development of the Convention on the Rights of the Child (CRC). The CRC has being ratified by all but two countries, and this has cemented on a global scale the definition of the child as any person under eighteen years old.

> "The almost universal ratification of the CRC, transcending national, political and social divisions, acknowledges the increased significance acquired by children at the international level, now internationally recog-

nised as the 'moral touchstone' of society"(Giner, 2007, 251).

The protection of children did not only become the 'moral touchstone' by which a society evaluates itself, but it also became a in instrument for legitimacy with other governments (ibid).

Prior to the introduction of the CRC, many of its central concepts were already in place in the Scandinavian welfare system. Vitus and Lidén show that in Norway, the CRC has played an important role within the debate on child welfare in relation to asylum policy. They point out, however, that the convention has not had any great weight in the Danish asylum discourse. They blame this on a failure to incorporate the CRC into Danish legislation, as neither the Consolidation Act on Social Services nor the Danish Aliens Act mention the CRC. But the main Danish legislation relating to children, the Consolidation Act on Social Services, does place great importance on children's needs in more individualistic terms (Vitus and Lidén, 2010).

As we can see, the image of the child as a rights-bearing, yet innocent, individual who should be protected and separated from the adult world, has over the years taken over as as the main representation in the discourse on children. The age of eighteen as a cut-off for who is considered a child was cemented into the international community in general, and Western societies in particular, through development of child labour laws and the CRC. These laws changed the previous perception of children as potential economic assets. As outlined earlier, this way of thinking about childhood and age is not the only one that exists - even today. But it has become dominant through specific legislation and societal goals. Childhood has been conceptualised, and the child's need for protection is seen as something needing state legislation. Together, these developments have played a role in how the problem representation has come about.

5.3.2 Constructing the 'asylum seeker'

Vitus and Lidén explore the way the discourse on asylum seekers has developed in the West. They explain that the political identity of 'asylum seeker' that we find today is the result of a discursive struggle that has, since the 1970s, gradually shifted the judicial, social and political status of those who seek asylum. The image of the refugee that emerged following the Second World War and in the definition

negotiated in the Refugee Convention of 1951 was for a period seen as 'morally untouchable'(Vitus and Lidén, 2010). Following the end of the Cold War, the attitude towards refugees slowly started to change. The UNHCR engaged in major repatriation efforts to return refugees to their country of origin, and efforts to help the refugees and IDPs in their regions was increased (Betts, 2009). It has been argued that since the end of the Cold War, the identification of persons as asylum seekers has become an instrument for refusal of recognition (Tyler, 2006). From the end of the twentieth century and to the present, the political climate for refugees and asylum-seekers has become less hospitable. The 9/11 terror attacks and the subsequent 'War on Terror' has particularly contributed to linking the discourse on asylum seekers to security. The discourse is no longer about security for asylum seekers, but rather security from asylum seekers. In this atmosphere, states have become ever more reluctant to provide asylum and resettlement (Betts, 2009; Vitus and Lidén, 2010).

In Scandinavia, the debate on asylum seekers has mainly revolved around the effect of immigration on a welfare system that is 'too generous'. Imagery of asylum seekers as abusers of the system has been evoked by politicians in order to achieve political goals. Although states have the power to simply refuse the entry of foreigners, they have drawn upon moral language to justify their actions and keep the moral high-ground.

> *"Typically, politicians don't just say that refugees have no right to come;
> they characterise them as morally deficient and undeserving: they are
> 'queue jumpers' or 'welfare cheats' or 'bogus asylum seekers'"* (Lemberg-
> Pedersen et al., 2013, 24).

This type of language illustrates how concerns for the welfare state has been used as an argument for stricter immigration laws.

Andersson (2017) points out that this discourse is also present in relation to asylum-seeking children, and in particular unaccompanied minors, as there exists an inbuilt contradiction between the best interest of the child and the interests of the welfare state. The authorities are concerned with treating asylum seeking children as particularly vulnerable. At the same time they want to sort out as many as possible, for example through age assessments, to ensure that nobody is undeservingly granted asylum. This emphasis on attempting to weed out those

who try to abuse the 'generous' welfare system has also contributed to creating an ambivalent relationship to asylum seeking children as either vulnerable children or people who consciously abuse the welfare system (ibid). The implications this has for how unaccompanied minors are met will be explored further in following sections.

5.3.3   Renouncing responsibility

In order to examine how Denmark's rejection of responsibility for those who do not meet the requirements for asylum has come about, we should look at the developments that happened in European asylum policy in the time leading up to the reform. By examining the intertextuality in the policy text, we can discover what previous work inspired the Danish development and paved the way for the reform.

In the revised Aliens Act, §56 section 9 opens for the possibility of returning a child to their country of origin if there is an adequate reception centre or care facility in place. The provision states

> *"Subject to the consent of a child falling within subsection (1), the Danish Immigration Service shall initiate a search for the parents or other family network members of the child unless the child can take up residence at a reception and care centre in its country of origin or former country of residence. This does not apply if the child falls within section 2(1)."* (Aliens (Consolidation) Act, 2013, 84)

As we saw earlier, a reference to reception centres is also present in §9c3.2. The introduction of these clauses were, according to Lemberg-Pedersen (2015), heavily inspired by the developments in several other European countries that dealt with unaccompanied minors. In the decade leading up to the reform, legal reforms or proposals that facilitated the return of unaccompanied minors were introduced in the Netherlands, Sweden, Norway and the UK. Lemberg-Pedersen emphasises how the amendments to the Danish Aliens Act also included a carefully phrased disjunction emulating the EU Returns Directive from 2008. It stated that even if neither family networks nor legal guardianship existed, unaccompanied minors could still be deported to reception facilities.

> *"Crucially, this rewording canceled out the previous legislation's acknowledgement that potential child emergency situations beyond those of persecution and refoulement could justify granting extended stay to unaccompanied minors: now, all unaccompanied minors returned to reception facilities could, simply by virtue of having arrived at them, be barred from meeting the new lowered threshold for emergencies"* (Lemberg-Pedersen, 2015, 14).

The introduction of the amendments in L37 happened not long after the initial development of the ERPUM I pilot project. The ERPUM project was a joint effort by several European countries to "develop new methods for organizing family reunification and return for unaccompanied minors that need to return after receiving a final rejection of their asylum application" (ERPUM, 2014, 6). The pilot was, in other words, intended to return rejected asylum seekers under the age of eighteen who had arrived in one of the ERPUM countries without a parent or guardian to their country of origin or transit. Formally, Denmark acted as an observer to the project. However, it was shown to play a central role (Lemberg-Pedersen et al., 2013).

Despite there being no explicit reference to the ERPUM project in the reform, we can find implicit references to the project in the proposal which stresses the need for efforts in the sending countries by the creation of reception and care facilities in the countries of origin of the unaccompanied minors. The argument for these centres was that the care facilities could create a secure frame for the returned children to access education or job training and develop skills to care for themselves when they reach adulthood (LSF37, 2010, 13).

Public discussions surrounding the return of unaccompanied minors occurred following the introduction of the L37 revision. It was argued that Denmark could save up to DKK 75 million per year on expenses associated with housing children in Danish asylum centres. The minister of Justice at the time, Morten Bødskov, defended the reform, and the narrow scope of the §9c3.2 in particular, by stating

> *"Let there be no doubt that unaccompanied minors is [sic] a particularly vulnerable group. This is also why the Aliens Act contains a particular set of rules designed for those, who might be placed in a real emergency, if they return to their country of origin... But children, who are given*

the opportunity of staying in a reception and care center, will not be placed in such an actual emergency exactly because they can stay in the center with access to care and reintegration support"(cited in Lemberg-Pedersen 2015: 17).

He went on to claim that responsibility for the unaccompanied minors would be transferred from Danish to Afghan authorities once the minors were outside of Danish borders, and that Denmark would only be responsible for the reception centres and not the children in them (ibid). In the reform proposal, it is argued that existence of appropriate reception centres would mean that the basis for residence accorded in §9c3.2 would expire. The child would not be placed in an "emergency situation" upon return if he could be received by a care facility. It is then suggested that temporary residence should no longer be given to unaccompanied minors on the basis of no family network (LSF37, 2010). Plans for creation of reception centres in sending countries ushered in by legal reforms in the EU and its member countries and by the introduction of projects like ERPUM can thus be identified as factors allowing the renunciation of responsibility we find within the problem representation.

5.4 What is left unproblematic in this problem representation? Where are the silences? Can the 'problem' be thought about differently?

As we have explored in the previous sections, the problem is represented to be people who are not in need of protection being given this and resulting in an unnecessary burden/responsibility on Denmark and attracting more asylum seekers. In this section I will investigate the issues that are left unproblematic by such a representation, the things that are not being addressed and, if possible, how to think of the problem differently.

Children who are permitted to stay in Denmark until they turn eighteen, either because of a lack of family network or after being deemed too immature to go through the asylum procedure, can sometimes live in the country for several years before they reach the age of maturity. The implication of the problem representation being that they are no longer Denmark's responsibility once they turn

eighteen, is that they do not belong in the country. Gibney points out that a static interpretation of the concept of home and belonging that we find in these policies takes little account of how the identities of the unaccompanied minors have changed during their time in Europe. He argues that such an interpretation ignores the fact that some children might feel like they belong "and morally have grounds to believe they belong" in the European country they are living (Lemberg-Pedersen et al., 2013, 26-27).

Citing legal and political theorists Joseph Carens, Rainer Baubock and Ayelet Shachar, Gibney goes on to make the argument that non-citizens have strong moral claims to citizenship and protection in countries they have been living in for a long period and been integrated into. For unaccompanied minors who have been living in Denmark for a shorter period of time, the process of integration can be sped up because they are in an important stage of their lives in terms of identity development (Waterman, 1982; Derluyn and Broekaert, 2008) and due to their participation in schools and other activities. Their moral claim to citizenship can thereby be strong despite having lived in the country for a limited time.

Even if we accept that people belong to certain places, we should question whether this necessarily relates to your place of birth. The issue concerning unaccompanied minors is, in this context, that they have been moved to a new place in a phase of their life which is important for their development. Going back to Malkki's reference to botanical metaphors in relation to refugees, it can be argued that these children have not, in fact, been uprooted, but rather transplanted. According to this metaphor, the roots of the child have not become "broken and dangling roots that threaten to wither, along with the ordinary loyalties of citizenship in a homeland" (1992, 32), but have instead been acclimatised in the foreign environment allowing them to thrive and 'belong' there. These factors considered, there is a strong argument that those who arrive in Denmark as minors can acquire a considerable moral claim to belonging in the country in the time they are there. It should be mentioned that there is a possibility of being granted residency for aged-out asylum seekers on the basis of strong ties to the country. However, Bendixen (2016a) points out at that this only happens in exceptional cases where the asylum seeker arrived in the country while very young. It could also be argued that Denmark does not have a legal responsibility to give protection to those who do not meet requirements for asylum and are no longer children protected by concerns for the rights of the

child. But the the argument that is present in the problem formulation that relates to Denmark's responsibility, thus ignores the moral responsibility Denmark has for those who have a sense of belonging to the country.

The second aspect of belonging that we can examine, relates to the importance of family unity. Being in a foreign country alone and without parental support is undoubtedly challenging for a child. Derluyn and Broekart describe how war and migration often involve "the breakdown of family and other social structures that in times of normalcy provide the institutional framework by which adolescents are socialized into the roles they are expected to occupy as adults" (2008, 323). In accordance with the need for normalcy and any form of stability for the youth, there is a strong moral claim that children should be with their families. The importance of family bonds can be found in the policy within the argumentation for returning unaccompanied minors to their relatives in the case of unsuccessful applications. In cases where the minor does not prove that he does not have any living family that he can be returned to, a search for any family member mentioned in the interviews is generally initiated. However, the change implemented by the reform does not require the immigration authorities to complete a search for the family before the minor is returned to their country of origin provided there exists suitable care facilities.

Secondly, in the assessment of whether a child should be granted temporary residence, an evaluation of the child's family network - or lack thereof - is undertaken. The purpose is to judge if there is reason to assume that he will be placed in an emergency situation upon return to his country. Bendixen (2016a) points out that one of the reasons why few children are granted this type of residency, is that the authorities can refer to a mention of a distant uncle or other relative in the asylum interview as proof that the minor has a family network in their country of origin, regardless of whether the child is in contact with this relative.

The way the policy is formed, sending a child back to the country of origin appears to be the only way of respecting the need for family unity. Family reunification is today not available to the children with temporary residence based on §9c3.2. Gibney, on the other hand, points out that another way of respecting family unity would be to allow the child to be reunited with family in Denmark (Lemberg-Pedersen et al., 2013). This way of thinking about the problem differently could also present a solution to the cases where there are security concerns about return-

ing young people to their family homes where they would otherwise be referred to internal flight options. However, the fact that this option is not explored within the policy, raises questions about the commitment to family unity for unaccompanied children that is presented in the policy. So does the referral to potentially distant family members and change in the requirement to search for family members.

5.4.1 Protecting the best interest of the child

A second silence we can identify in the problem representation is that of concern for the best interest of the child. The policy proposal mentions the child's best interest ('børnets tarv') three times, once in reference to children who are victims of human trafficking and in need of additional support, and twice in relation to family searches. The final policy revision does not mention the best interest of the child. The concept of the child's best interest is outlined in Article 3 of the CRC and states that

> *"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."* (UN, 1989).

One issue that was presented by several refugee rights organisations at the introduction of the revisions - and at other similar policy revisions relating to temporary residence - was the uncertainty that a temporary residence without the intention of later becoming permanent would create for unaccompanied minors (Ladekarl, 2010; Kamm, 2017). The argument was that even though you are protecting the child while he is under eighteen and could thereby argue that the best interest of the child is considered, there is created immense uncertainty about the future for the minor by the representation of the young person as not deserving of protection once he is no longer a child. Reports on unaccompanied minors show that they do not start thinking about their future as adult once they reach adulthood, but long before (Børnerådet, 2015). Unaccompanied minors who are granted residence until their eighteenth birthday will be living with a cloud of insecurity hanging over their head, which could prevent them from enjoying the very childhood that it has become so important to protect. As stated by Gibney

"Clearly any unsuccessful asylum seeker child advancing towards that age would have to live under the shadow of deportation. If the cut-off is 18, one would expect it to weigh particularly heavily on the mind of a 17 year old; if it were 16, on the mind of a 15 year old. A supposedly 'safe' age at which we deport someone does not mean that the anxiety (the sense of a life in limbo) will begin only when removal is being effected."
(in Lemberg-Pedersen et. al 2013, 27-28)

The policy could be said to go against the best interest of the child, as it disrupts the child's welfare by introducing another element of uncertainty in the lives of children who are already in a difficult situation. This sentiment resounded in all three interviews. The representative from the National Council for Children, Anna Marie Schurmann Carstens, put the issue in terms of integration. She emphasises the fact that the current policy does not take into consideration the attachment that the child might have formed to the country.

"We think that it should be taken into consideration how long the child has been here and if the child has become integrated in Denmark, if they have become fluent in Danish, have started to forget their home country and language. These children are often not able to get by in their home countries. So why on earth would you send them back even if they are over eighteen? That's not in the best interest of the child or the adult"
(Appendix A1)

Within this view, the best interest for the child would be given much more weight in the procedure than it currently appears to be. Børnick-Sørhaug describes a general lack of concern for the best interest of the child within Danish legislation and the decisions that are made as a result of it.

"[The best interest of the child] is supposed to be the main focus. But I don't feel like it is. An example is the §9c 3.1 which determines if a child is mature enough to go through the asylum process. Is it in the best interest of the child to sit [in an asylum centre] and wait until they are mature enough? No. Is it in the child's best interest not to be able to apply for family reunification? No. I dont think the legislation is made

*in a way that considers what is in the best interest of the child. The
legislation disrupts it. It is relevant to consider the CRC. If they were
to really follow it, I think a lot more children would be granted residence"*
(Appendix A2).

By placing a greater emphasis on the best interest of the child when making deci-
sions concerning asylum seeking children, the way the unaccompanied minors are
represented within the asylum system could be altered. This could ultimately shift
the standing in the discursive struggle between 'child' and 'asylum seeker' within
Danish debate on unaccompanied minors. The lack of a comprehensive considera-
tion of the best interest of the child, raises questions about why this absence is not
problematised and addressed within the policy.

5.5 What effects are produced by this representation of the 'problem'?

The aim of this section is to examine effects that are produced by the problem
representation, its assumptions and its silences. I will in particular examine three,
overlapping kinds of effects: discursive effects, subjectification effects and lived
effects.

Drawing on the findings from previous sections, it can be argued that the
discourse surrounding unaccompanied minors presents an ambivalent relationship
towards them. On the one hand, they are seen as children too vulnerable to be
sent back to their country of origin and in need of special care. On the other hand,
they are seen as asylum seekers and, in the case of those affected by several of the
policy changes, unsuccessful asylum seekers that should be returned to their 'home'
as soon as possible. They are also in some cases seen as consciously attempting to
abuse a welfare system that is 'too generous' (Andersson, 2017). The emphasis that
has been put on the possibility to return minors before their 18th birthday and the
general need for stricter control of who is given access to asylum and the welfare
system makes the second identity particularly prominent. This finding correlates to
Laclau and Mouffe's understanding of discourses struggling for universality versus
particularity. In a policy that represents unaccompanied minors as undeserving
asylum seekers as the 'problem' to be fixed, we can see how unaccompanied minors'
political identity as 'asylum seekers' has gained hegemony. Their identity of 'asylum

seeker' and the nodal points which follow it are not substantially affected by the 'child' category. 'Asylum seeker' becomes universal and abstracted from space and time, while 'child' becomes separate, concrete and space-time bound. The policies outlined here seek to limit access to the entitlements owed to unaccompanied minors and to prevent future arrivals of unaccompanied minors. This shows that within the discourse that the policy reform operates within, the 'asylum seeker' category becomes more important than the 'child' category.

Both Vitus and Lidén (2010) and Andersson (2017) have found that unaccompanied minors are defined as 'not just a child', and that this can result in political and judicial rights, possibilities, obligations and limitations that are different from those of other children. Andersson points out that when asylum-seeking children are seen as 'migrants' rather than 'children', a distance is created within the bureaucracy where the minor is seen as an 'other' - an 'object'. This, she argues, can result in a reception of unaccompanied minors and assessments of their asylum claims that become contrary to the best interest of the child (Andersson, 2017). This othering tactic - in which groups are excluded, construed as different, and placed at the margins of society (Mountz, 2009) - can also be seen as a form of dividing practices. Bacchi describes the Foucauldian concept where groups are separated from others due to specific characterisation. This can occur when the target group of a policy is evoked to think of themselves as the 'problem'. She explains how characterisation of groups - like the one we have seen of unaccompanied minors as 'not just children' and asylum seekers as 'undeserving' and 'welfare cheats'- allows them to be marked out for treatment that would not be tolerated for other groups, in this case Danish children.

This brings us to the subjectification effects this representation creates. By treating unaccompanied minors as 'not just a child' - as in the universal category beyond state and national politics (Vitus and Lidén, 2010) and someone who is free to enjoy their childhood - unaccompanied minors are placed in a subject position in which they are made to think about themselves and their relationships to others in a specific manner (Bacchi, 2009). She explains that:

> "[D]iscourses make certain subject positions available. And, when such a position is assumed, a person tends to make sense of the social world from this standpoint, all the while being subjected to the full range of discourses constituting this position. Hence, who we are - how we feel

about ourselves and others - is at least to an extent an effect of the
subject positions made available in public policies" (Bacchi, 2009, 16)

In other words, by letting the 'asylum seeker' identity gain discursive hegemony over the 'child' identity, and presenting 'asylum seekers' without a recognised claim to protection as the 'problem', unaccompanied minors are evoked to see themselves as 'unworthy' while they are still entitled to protection due to their age.

A representation of unaccompanied minors as 'asylum seekers' over 'children' also has some lived effects. Firstly, we can see that the effect of dividing practices at play include allowing unaccompanied minors to be marked out for treatment that would not be tolerated for other groups, in this case Danish children. This argument is supported by reports from organisations working with unaccompanied minors who calls attention to their situation. A recent report from the Danish Refugee Council maintains that "we accept unhappiness in asylum seeking children that we would never accept in Danish children"(Dansk Flyktninghjælp, 2018). They show that the bar for when concerns are raised about the well-being of asylum seeking children, and unaccompanied minors in particular, is much higher than for Danish children of corresponding ages. The report finds that:

> *"Even though the purpose of the Consolidation Act on Social Services is*
> *to ensure the well-being and development of children and youth, profes-*
> *sionals experience that the cause of asylum seeking children's unhappi-*
> *ness can generally be attributed to conditions relating to the Aliens Act,*
> *such as long asylum processes, rejection of asylum claims, politically*
> *decreed living conditions, including multiple relocations between asylum*
> *centres"* (Ibid).

As the quote illustrates, unaccompanied minors are first seen as 'asylum seekers', governed by the Aliens Act, and children, protected by the Consolidations Act on Social Services, second. This puts them in situations that would not be accepted for Danish children who are seen as 'just children'.

When minors are given temporary residence that will expire on their 18th birthday, concerns for the protection of their childhood are not taken into account. As shown before, temporary residence produces uncertainty that takes effect long before the potential return.

Two of the interviewees, Swane and Børnick-Sørhaug, also recount how the 'not just children' treatment influences expectations towards them, in particular in the interview process.

"They have to live up to the authorities' way of looking at the cases and making decisions in the cases. I think that is a challenge. Even though they have child-friendly approaches, they are still under huge pressure, and most of them can't live up to what is expected from them. They are children, and you still expect them to be able to explain their whole life situation in detail and about various traumatic events. I don't think that they are sufficiently considered as children." (Appendix A3)

From her perspective and experience as a representative, Børnick-Sørhaug also thinks the interview process does not sufficiently consider the child's welfare.

"It can seem a bit ironic, but the interviews for children are much longer than for adults. They are exhausting. The purpose is to allow for breaks for the children [...] They also accommodate by asking clarifying questions to allow the children to think about what they said. [...] I still think they are very demanding [...] I don't think you can expect the understanding of linear time that they ask for, nor that all the children are able to remember and recount time correctly. This is something that the authorities can clamp down on when assessing credibility. Here, I feel that they are not taking sufficient care. What they expect from children in regards to what they should answer is insane" (Appendix A2).

These interviewees think that unaccompanied minors are expected to answer questions and show an advanced understanding of their situation that would not necessarily be expected from any other child. This corresponds with the finding that viewing unaccompanied minors as 'asylum seekers' first and 'children' second can lead them to be treated as older than they are. This, in turn, can mean that concerns for the children's vulnerability and their best interest are not given the weight they require.

5.5.1 Child protection and immigration control

The deterrence aspect of the problem representation also produces certain discursive and lived effects for unaccompanied minors. The policy reform is, as evidenced by the aim to reduce the influx of unaccompanied minors to Denmark, in reality a deterrence measure. On a discursive level, we can see how framing the arrival of unaccompanied minors as something that should be stopped, or at least diminished, puts their 'asylum seeker' political identity over their 'child' identity.

In Norway, similar measures have been introduced to dissuade unaccompanied minors from travelling to the country. Temporary residence for unaccompanied minors in Norway was introduced in 2009. The Norwegian Directorate of Immigration stated that the motivation for the new regulation was to prevent children who do not have a basis for residence other than the fact that they are underage and that Norwegian authorities are not able to locate a caregiver in the country of origin from being sent to Norway "possibly for economic reasons" (UDI, 2009). The aim was to signal to children that they would not be permitted to stay indefinitely. Critics of this policy argued that by restricting access to permanent residency the authorities are more concerned with deterring others from coming to Norway than they are with protecting the rights of the people they have a responsibility for under international conventions (NOAS, 2017; Igesund, 2015). This is in line with Gammeltoft-Hansen and Tan's argument that restrictive migration control policies have produced a refugee regime fundamentally based on the principle of deterrence rather than human protection.

> *"[W]hile the vast majority of European states still formally laud the international legal framework to protect refugees, most of these countries simultaneously do everything in their power to exclude those fleeing international protection and offer only a minimalist engagement to assist those countries hosting the largest number of refugees"* (Gammeltoft-Hansen and Tan, 2016, 1).

This logic is also present in the Danish policy. By discouraging and deterring unaccompanied minors from coming to Denmark, the state is able to avoid the responsibility for protecting children, which is placed on them by international conventions like the CRC and national legislation like the Consolidation Act on Social Services.

In this context, we can see how the way a topic is being talked about, constitutes a form of power. By presenting unaccompanied minors as 'asylum seekers' first and 'children' second, the state is able to implement policies that work to its benefit by reducing the number of foreigners they are responsible for. Gammeltoft contends that states', and in particular Denmark's continued use of indirect deterrence policies suggests that domestic policy, at least under some circumstances, can impact on arrival numbers. He points out, however, that they may also have some indirect costs for the states. He refers particularly to concerns about the core right of asylum seekers and refugees and about integration. Swane, from the Danish Refugee Council, also brings up this issue as a problematic part of the policy.

> "[The policy] wants to tighten the law in order to send a signal to the parents and the children to not come to Denmark. But by doing that, you punish the children that are here. Then, tightening the law and sending a signal becomes more important than the children's well-being and the best interest of the child" (Appendix A3).

Swane refers to the policy change as a way of "punishing the children that are here". This refers to the method that indirect deterrence measures take. Instead of actually preventing access to asylum, indirect deterrence measures are designed to make the process and conditions of seeking asylum in Denmark as difficult and, at times, uncomfortable as possible. With this, Denmark seems like an unattractive destination for asylum seekers. The 'negative nation branding' ultimately affects those who are already in Denmark. Gladwell and Elwyn, who studied the effects of temporary residence on unaccompanied minors in the UK, argue that the inability of the minors to plan for their future means that they are unable to engage with it at all.

> "[T]he procedure as it exists today creates limbo for young people and they remain in uncertainty during a crucial period of adolescence, which probably has long term negative consequences on their emotional and psychological well-being, whether they stay here or go back to their country"(Gladwell and Elwyn, 2012, 5).

Schurman Carstens from the National Council for Children echoes this. She raises doubts about the effects that temporary residence has on children.

"Everything that is temporary for children is in our opinion is questionable and potentially dangerous and threatening for the child. It is not something we would recommend. We can see that the children are worried about these residences" (Schurman Carstens, Appendix A1).

The policies of age assessment and early return of unaccompanied minors are explicitly listed as potential deterrents in the revision proposal. They can likewise have severe effects for those who have already arrived in Denmark. Brassien (2017) argues that increased use of age assessments can hurt unaccompanied minors' overall credibility. Igesund (2015) points out that the negative effects that temporary residence have on refugees' mental health have been well documented. Gammeltoft-Hansen underlines these arguments and adds how deterrence policies like these could be to the detriment of integration efforts at later stages.

"Indirect deterrence policies are more likely than other forms of deterrence to impact on efforts to ensure the integration of refugees who are already in the country than other forms of deterrence. It is particularly the case for policies involving deliberate delays in processing asylum claims, a lack of access to labour markets during the asylum phase, automatic national dispersal policies and short-term residence permits, which have each been shown to impact negatively on the later employment opportunities and economic performance of those who are subsequently afforded protection" (Gammeltoft-Hansen, 2017, 117).

In the Norwegian case, it was argued that the deterrence measures would prevent the minors from embarking on the dangerous journey in the first place, thereby portraying the policy as coming from a concern for the child (NOAS, 2017). However, in the Danish case, this argument is not present. The implication is then that the policy is not necessarily aimed at preventing the children from leaving their country of origin, but mainly just preventing them from coming to Denmark. In this case, we can see how by directing the asylum seekers away from Denmark, they are being redirected towards other countries. Gammeltoft-Hansen uses the term 'beggar-thy-neighbour' to describe this dynamic. He points out, however, that policies based on this logic are vulnerable to similar policy developments in neighbouring states, which in turn can reduce or reverse the deterrent effect (Gammeltoft-Hansen, 2017).

As we have seen, similar policies have been implemented in several other European countries (Lemberg-Pedersen et al., 2013). With these considerations, it is hard to argue that the potential benefits the policy can have on immigration control can outweigh the effects the representation that the policies have on the unaccompanied minors who are already in Denmark.

The overall effects seem to be an emphasis on limiting immigration. Instead of ensuring that special rights and entitlements go to the right persons, there is a greater concern with limiting the number of people who are allowed to stay in Denmark and, in the long term, who comes to Denmark. This focus is manifested in restrictive policies. It comes at the expense of young asylum seekers whose childhood and adolescence is exposed to further anxiety. When the problem is represented as a need for stricter immigration control and asylum procedures to determine who is actually deserving of protection, unaccompanied minors come to be seen as part of the problem.

5.6 How/where has this representation of the 'problem' been produced, disseminated and defended? How could the problem representation be questioned, disrupted and replaced?

The final part of the WPR method asks the researcher to think about how the problem representation has been produced, disseminated and defended and how it can be questioned, disrupted and changed. In this section I will discuss these questions and explore how those who work with unaccompanied minors seek to challenge policy makers and ensure that the rights of unaccompanied minors are sufficiently protected.

5.6.1 Defending the representation

In order to discover how the problem has been produces, disseminated and defended, it is important to look at who has had access to and influence over the discourse that has been outlined above. I showed in previous sections that the discourse showing asylum seekers as something to be restricted, controlled, and even feared, has lead to a focus on immigration control. This development has had support in

the last decades, and particularly following the 9/11 terrorist attacks in the USA. Betts shows how the securitisation of asylum seekers has been inextricably linked in policy and media debates, despite weak empirical links between asylum and terrorism. Several studies have been done on the effects that the media has had on labelling asylum seekers in certain ways. Mares (2003), for instance, analyses the dialectical process through which the Australian media has reinforced. It has established the dominant perception of asylum seekers and refugees as a threat. He emphasises how spontaneous-arrival asylum seekers in the early twenty-first century were associated with "infectious disease", "illegal immigrants", "queue jumpers", and seen as "phoney" and "bogus". This resonates with the earlier example from Gibney. He argued that politicians have used these and similar terms to justify stricter immigration control (Lemberg-Pedersen et al. 2013). Betts points out how debates like these create "binaries of citizens/non-citizens, and divided asylum seekers into analytical meaningless categories of bogus/genuine, legal/illegal, or good/bad refugees"(2009, 76).

In their study of the coverage of refugees and asylum seekers in the British press, Baker et al. (2008) show that even left-wing press portrays immigrants as a 'problem' that two sides are arguing about how to solve. The general trend is that asylum seekers are not presented as a heterogeneous group of people or as saying or doing anything. They are instead objectified, backgrounded and talked about in terms of numbers and quantifications. Baker et al point out that even liberal media "reproduces an ideology that has been established by conservatives" (2008: 293). They are not perceived as taking an anti-immigration stance. But by reproducing the 'problem' of immigrants as one about numbers that should be lowered, they contribute to making the conservative representation dominant. In the Danish context, asylum seekers have also been presented as 'problems'. Boecker et al. (2016) analysed media representation of displaced Afghans in Denmark and Germany. Compared to the German representation, Danish media took a more negative approach to the Afghan asylum seekers. German media humanised and individualised the asylum seekers much more often than Danish media. Asylum seekers in Danish and international media have been presented as a 'problem', and the focus has been on controlling immigration and protecting the state from 'phoney asylum seekers'. This has supported the hegemony of the discourse on immigration control over human protection. It also influences the way the 'problem' of unaccompanied minors is portrayed. The need to limit immigration encourages

the view of unaccompanied minors as asylum seekers rather than children.

Headlines about unaccompanied minors from Danish media can reveal how newspapers and broadcasters can reinforce the representation of the problem that we find in the policy. Consider the following headlines from various Danish media:

- 'Expensive rent: 10 refugee children are costing the municipality 670.000 kroner a month' (TV2, 25 July 2017)

- 'Unaccompanied refugee children cost billions: Now German politicians want to control their cellphones' (Berlingske, 22 February 2017)

- 'Unaccompanied refugee children are costly for Denmark: This is how high the cost is for each child' (BT, 22 February 2016)

- 'One out of five asylum seekers are now registering as unaccompanied children' (Berlingske, 26 January 2017)

These headlines confront the general public with an image of unaccompanied minors as great drain of Danish resources and raises questions about the validity of their claims. The particular language that is used to report on the expenses of protecting minors - 'expensive', 'costly' and 'billions' - presents the issue as excessive use of resources on the children. Through a post-structuralist lens, we can argue that the use of this specific language has implications for how we understand and thus react to the problem. The media's description of the circumstances reinforces the problem as one concerning economic resources and who is given access to these. These headlines appear in a context, and the language reproduces the question of whether unaccompanied minors deserve these resources. Reproducing such a representation thus strengthens its hegemony and power to define the 'truth'. Even though this is not the only way unaccompanied minors are talked about in Danish media, the headlines are examples of how the dissemination of the representation not only comes from the policy itself or from the politicians behind it.

5.6.2 Questioning and disrupting the representation

As shown in the previous sections, there are several issues with the way that the problem is represented in the policy reform. The WPR method's final question calls

for an examination of how the representation of the problem could be questioned, disrupted, and even replaced. We have already seen how competing discourses have been repressed in favour of discourses that allow this representation of the problem to exist. For instance, the way age and 'childhood' versus 'adulthood' are viewed, plays a role in shaping the problem. But as we saw, this definition limits the scope of who is protected under the current regime. It creates strict lines between the stages of life. These do not take into account mental maturity when defining who is children, and, as an extension of that reasoning, in need of protection. This use of strict age lines is questioned and challenged by the National Council for Children, which has argued that protection and rights granted to children could also be extended to those who turn eighteen and those slightly older.

> *"We extend our role a bit more to encompass [youth over eighteen years old] as well. We know that they are not children anymore, but turning eighteen and then being returned to their home country is not always the best thing for them, even though they are considered adults."* (Appendix A1).

Schurmann Carstens says such an interpretation could be beneficial if the authorities are to continue using the current method for age assessment, which has been criticised for not providing reliable evidence for determining a person's exact age.

> *"What if they are not in fact eighteen? What if they are still seventeen, but according to Danish law and legislation they are eighteen, what then? That is of concern. We think that in those cases the doubt should always benefit the child"* (Ibid).

The idea of extending some rights and protection to those who turn eighteen or are deemed over eighteen by Danish authorities, is echoed by the two remaining interviewees. The DRC challenges the practice when they argue for giving residence based on §9c 1 to more unaccompanied minors. This permit takes into account the best interest of the child and can be extended past their 18th birthday.

> *"We try, in some cases, to seek permits on §9c 1 and the best interest of the child before they turn eighteen. But it is very different from case to*

case whether it is possible. The problem is not that they get temporary residence, but that it only lasts until they are eighteen years old. Because during the period where they are actually children, they worry about the future and what will happen when they turn eighteen. It is horrible that you give them a chance to move into the society, to move into the community, to start their life - and then they turn eighteen and potentially have to be sent out. [...] You give them a picture of what they could get, and then you take it away" (Appendix A3).

Børnick-Sørhaug compares the idea of prolonging protection for 'aged-out' unaccompanied minors to common practice for vulnerable Danish children who turn eighteen.

"It is what we would have called 'after care' in Danish social welfare. To compare, if a Danish child has had difficulties, had assistance from the municipality or lived in an institution, they would typically extend the assistance after the child has turned eighteen. This assistance can be extended until the person is 23 years old. This is not something that exists within asylum legislation, which I think is a huge problem. Turning eighteen, or having your age adjusted, involves such a huge change, which Danish youth do not have to experience in the same way. According to [international legislation], children are supposed to have universal rights no matter which country they are situated in. This practice clearly reflects how this does not seem to apply to unaccompanied minors" (Appendix A3).

In line with their statements, an argument for returning to the previous policy arises. That was a policy that did not represent the problem as one of wasted resources on people who do not deserve them. It presented the problem in a way that allowed considerations for the best interest of the child and human protection to outweigh those of immigration control.

6   Discussion & Conclusion

In this thesis, I have explored how the representation of the 'problem' in policies relating to unaccompanied minors dictates how they are viewed and subsequently how they are treated. This was done in order to answer the question of why certain representations produce different responses within the asylum system. I have deployed the WPR approach to policy analysis, which urges the researcher to explore how representations of the 'problem' take part in the creation of the 'problem'. Interviews with professionals working with unaccompanied minors were also conducted to support the analysis and to provide an insight into the responses unaccompanied minors are faced with. I have used post-structuralist theory and hegemonic discourse theory to inform the analysis and explain the relationship between language, knowledge (or 'truths') and power. Elements from theories on deterrence, and nationality and belonging are also featured in the analysis. In this section, I will discuss and clarify some of the points raised in the analysis as well as draw conclusions based on this.

The first question of the WPR approach urges the researcher to examine what the 'problem' is based on which 'solutions' are suggested. We saw that plans for restricting access to asylum for 'aged-out' asylum seekers, increased use of age assessment, and returning unaccompanied minors to reception centres in their country of origin constitutes the problem as asylum seekers taking advantage of the Danish systems leniency and thereby attracting more asylum seekers placing an unnecessary burden on Danish resources. This representation is based on assumptions relating to how childhood is constructed compared to adulthood in which the child is seen as 'deserving' while the adult is 'undeserving'. In this context, the differentiation between the two stages of life are created through strict age lines.

The dominant discourse on children, in which they are seen as vulnerable almost 'sacred beings' that should be protected, we can, to some extent, find within the policy, as protection is offered to and special considerations are reserved for children. The temporary residence does comply with the best interest of the child as it allows the child not to be returned to an 'emergency situation'. But as we have seen upon closer inspection of the policy, there is a strong argument for the fact that unaccompanied minors are not treated primarily as children. This can be related back to Cunningham's (2005) claim that there exists a notion that chil-

dren are only children if their life experiences accord with a particular set of ideas about childhood. This idea can help explain why unaccompanied minors appear to be treated differently than other children. Their unusual situation in combination with the duality of their political identity as both 'child' and 'asylum seeker' creates the situation that Vitus and Lidén also identifies in which the 'child is not a child' and where they are treated differently than their Danish counterparts. This situation is exemplified by the the level of detail expected from the minor in the asylum interview, the heightened threshold for when action are taken in regards to their unhappiness and discontent while living in asylum centres, and the lack of 'aftercare' for 'aged-out' unaccompanied minors that a vulnerable Danish child would be offered in their early adulthood.

The ambivalent position unaccompanied minors are placed in when they are viewed as 'not just children' means that their inherent rights as children also are pushed to the background. In the Danish context, this means that the Aliens Act becomes the main legislation governing the unaccompanied minors, and not the Consolidation Act on Social Services, which governs children. We see this trend in the absence of a thorough assessment of the best interest of the child in many of the decisions concerning the minors. It is evidenced by the lack of concern for the mental strain that a temporary permit places on the minor and in the disregard for the sense of belonging a minor might have acquired during their time as an adolescent in Denmark. When looking at the silences in the problematisation and exploring what is *not* being addressed we also saw that the need for comprehensive considerations of the best interest of the child was left unproblematic.

It is important to see how the different categories are created and promoted, as it can tell us something about the way we are governed. The logic behind the problem representation becomes clear when we look at how the representation of a problem can be used to promote or justify certain actions or goals. In the case of the unaccompanied minors in Denmark, we can see how by reinforcing the discursive hegemony that 'asylum seeker' has over 'child', it becomes easier for those who push for stricter immigration control and to justify the differential treatment given to unaccompanied minors. The knowledge that is represented and produced by the categories within the policy thus becomes a source of power.

The aim of this paper was to discover why the emphasis on the categories of 'child' or 'asylum seeker' appear to elicit different responses for unaccompanied

minors in the Danish asylum system. Based on what has been found in the analysis of the L37 policy reform and through interviews with professionals working with unaccompanied minors, we can see that putting an emphasis on the 'child' identity of the unaccompanied minor triggers specific obligations for the state in terms of protecting the child's vulnerability and non-discrimination regardless of citizenship or status. Bringing the 'asylum seeker' identity - and the nodal points associated with it - to the front when discussing unaccompanied minors, makes justifying strict policies easier. In a regime that is increasingly being defined by a concern for immigration control over human protection, how we define those who seek asylum determines the way we see our own responsibility.

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A   Appendix

A.1   Appendix A1 - The National Council for Children - Anna Marie Schurmann Carstens

Find audio file attached

A.2   Appendix A2 - Red Cross Asylum - Mari Børnick-Sørhaug

Find audio file attached

A.3   Appendix A3 - Danish Refugee Council - Sissel Swane

Find audio file attached

Testimony

I herewith declare that I have written this paper on my own and that I have not used any other sources and materials than those indicated. I properly cited the materials I have relied upon. I have not submitted this document as a master thesis elsewhere.

Mariann Eliassen