

NEW ISSUES IN REFUGEE RESEARCH

Research Paper No. 194

Vulnerable or invisible? asylum seekers with disabilities in Europe

Clara Straimer

University of Oxford

E-mail: clarastraimer@googlemail.com

November 2010



UNHCR
The UN Refugee Agency

Policy Development and Evaluation Service

**Policy Development and Evaluation Service
United Nations High Commissioner for Refugees
P.O. Box 2500, 1211 Geneva 2
Switzerland**

**E-mail: hqpd00@unhcr.org
Web Site: www.unhcr.org**

These papers provide a means for UNHCR staff, consultants, interns and associates, as well as external researchers, to publish the preliminary results of their research on refugee-related issues. The papers do not represent the official views of UNHCR. They are also available online under 'publications' at <www.unhcr.org>.

ISSN 1020-7473

Introduction

Part of the appeal of human rights is their supposed universality. In practice, however, the rights of certain groups which have been continuous targets of discrimination have required specific articulation. Persons with disabilities have been described as one of these groups in human rights law. In many countries of the world, they 'are still primarily viewed as "objects" of welfare or medical treatment rather than "holders" of rights.' (OHCHR *et al.* 2007: 4). Institutionalised, stigmatised and hidden by their families, the plight of persons with disabilities still remains, often literally, behind closed doors (see Ahern and Rosenthal 2005, 2006, 2007).

Although the recent UN Convention on the Rights of Persons with Disabilities has rendered persons with disabilities more visible their suffering is still oft-overlooked. One of the contexts in which this occurs is displacement. The specific barriers that persons with disabilities face to accessing protection and assistance when seeking asylum are yet to be recognised. With the exception of provisions for access to social security (Article 24(1)(b)), the 1951 Refugee Convention and its travaux préparatoires (UN Ad Hoc Committee 1950) provide little guidance on a disability-sensitive interpretation of refugee law and there are currently no official guidelines on this matter.

The aim of this article is to render visible the relevance of disability in the context of asylum and investigate the causes for the limited attention it has received to date. With a focus on the Common European Asylum System, the research was guided by three specific questions: 1) What is the relevance of disability in the context of asylum ? 2) To what extent is disability taken into consideration in the Common European Asylum System ? 3) What does this tell us about the perceptions and structural realities underlying the harmonization process?

Choice of methods and data collection

A combination of Critical Discourse Analysis of key legislation and semi-structured expert interviews is used to examine the relevance of disability in the context of asylum. Three aspects are given particular consideration: The qualification of persons with disabilities for asylum, their access to a fair asylum procedure, and the reception conditions they encounter.

In the Common European Asylum System, the Directives that deal with these aspects are the Qualification Directive (European Council 2004), the Asylum Procedures Directive (European Council 2005) and the Reception Conditions Directive (European Council 2003). Their recent recasts in 2008 and 2009 are central to the second stage of the harmonized European asylum system to be agreed on by 2012.¹ An interest in the perceptions and structural realities underlying their drafting led to the adoption of a discourse-analytical approach.

Fairclough's (2001a, 2001b) Critical Discourse Analysis was chosen as a method since it shares with disability studies a focus on structural oppression. Following this approach, both the text and context of the recast proposals were analysed. The textual

¹ Although the Dublin II Regulation and its recast and the Temporary Protection Directive would have been an interesting complement, their inclusion would have exceeded the scope of this analysis.

analysis focused on how certain words are chained together (Fairclough 2001b: 240). The explicit linkages established between disability and other terms and the absence of such linkages in certain contexts show how disability is conceptualised in the recast Directives.

This analysis concentrates particularly on the concepts of 'special needs' and 'vulnerability' key to the additional safeguards introduced in the recast proposals. The contextual analysis examined 'the range of alternative[s] available and the choices that are made amongst them' (Fairclough 2001b: 240). The official comments of UNHCR and ECRE, the responses to a consultation by the European Commission – the Green Paper on the Future of the Common European Asylum System² - and the Staff Working Documents accompanying the recasts (European Commission 2008, 2009a, 2009b) provided insights into the approach to disability initially proposed and the one finally adopted in the text.

These findings are complemented by insights from interviews with seventeen stakeholders. Participants were purposefully sampled due to their expertise relating to disability or asylum in the European Union and interviews were conducted from March to early May 2010. In a process of open coding (Strauss and Corbin 1998) both constructed and in vivo codes were applied to the data.

The constructed codes allowed for a thematic comparison (Flick 2006) of interviews regarding the themes of vulnerability, assistance and protection. In vivo codes helped explore the different perceptions of disability by various agencies in the context of asylum. Due to the small sample size, insights provided by the interviewees have explanatory value but do not constitute the 'official' view of any of the participating organisations.

The relevance of disability in the context of asylum

Literature employing the terminology of 'disability' and 'asylum seekers' is relatively sparse. The majority of work touching on the interaction between asylum and disability is presented in terms of 'health', particularly 'mental health' (Norredam 2005; Cowen 2003; Keller *et al.* 2003; Burnett and Peel 2001). Due to this focus on 'health' and 'illness' in the literature, the relevance of disability may have gone unnoticed. 'Mental health problems', 'mental illness', or 'mental disorders', for example, are all terms which may designate an intellectual or mental disability (Mulvany 2000; WHO 2005: 23).

The terminology currently used is reminiscent of the medical approach to disability, an approach that has come under criticism from disability activists in the late 1980s. A brief overview of the concept of disability will provide the necessary context for looking beyond such terminological divides to explore the relevance of disability in the context of asylum.

² A comprehensive list of the responses to the Green Paper on the Future of the Common European Asylum System can be found at the following link: <http://ec.europa.eu/justice_home/news/consulting_public/gp_asylum_system/news_contributions_asylum_system_en.htm#civil_society> (Accessed 6 May 2010)

From a medical to a social and human rights approach

There are currently three main approaches to disability: the medical model, the social model and the social and human rights based approach. The medical model, originating from a WHO definition of 1980 understands disability as resulting from an 'abnormality' which prevents individuals from performing certain actions. Disability is rooted within the individual's deviance from the 'healthy' norm and closely linked to the idea of assistance: Charity, welfarism and a perception of persons with disabilities as 'patients' constitute the conceptual cornerstones of this model (Thomas 2007; Fredman 2005: 202).

Inevitably dehumanising in its neglect of individual capability and autonomy, the medical model was challenged in the 1980s, when advocates of the social model called for disability to be recognised as a form of structural oppression (Abberley 1987, Oliver 1989). Disability came to be understood as a result of disabling barriers imposed on persons with impairments by an exclusionary society (Oliver 2004: 21). The emphasis was no longer on individual deviance from a medical norm observed in society, but on the social perceptions attached to that difference. Only the oppressive attitudes of society and environmental barriers, it is argued, render an impairment a disability. This paradigm shift has had major consequences for persons with disabilities.

Its most important achievement has been to move disability from the individual and private sphere into the social and public realm. Disability was thus re-conceived 'as a social status vulnerable to discrimination by non-disabled persons' (Degener 1995: 15). The shift from seeing disability as a medical condition to recognising it as a social status allowed to understand persons with disabilities as targets of discriminatory treatment thus requiring particular protection. Since refugee and human rights law are founded on the principles of equality and non-discrimination (Edwards 2005), this shift is particularly relevant in the context of asylum.

However, to conceive of disability solely as a social status that renders people vulnerable to discrimination can result in a denial of the assistance needs that persons with disabilities may have due to their impairment (French 1993, Williams 1999). Ignoring difference and the diversity resulting from the variety of impairments and degrees thereof the social model risked becoming 'an outdated ideology' (Shakespeare and Watson 2001). The first international treaty specifically addressing the human rights of persons with disabilities, the UN Convention on the Rights of Persons with Disabilities (UNCRPD), therefore adopted a holistic approach.

This approach is based on the 'holistic' understanding of all human rights as indivisible and interdependent (Rehman 2003: 7). The UNCRPD thus obliges signatories to provide protection, recognise the equality and capabilities of persons with disabilities and provide reasonable accommodation for disability-specific needs. It acknowledges disability as a result of both the impairment and external barriers: 'Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others' (UNCRPD Article 1). This shift from the medical model to the social and human rights based approach proposed by the UNCRPD ensures the access of persons with disabilities to both protection from discrimination and assistance for impairment-related needs.

The invisibility of asylum seekers with disabilities

Since the theoretical frameworks and terminologies used in the context of disability studies have not yet found their entry into the displacement literature, asylum seekers with disabilities have remained largely invisible. Informed by the conceptual framework outlined above, I have sought to transcend these boundaries in the following exploration of the intersections of disability and asylum.

Firstly, disability may be a consequence of displacement. The most obvious connection is perhaps that an impairment can be a result of persecution and torture (Bradley and Tawfiq 2006; Loutan *et al.* 1999; Silove 2000; Bleich and Solomon 2004). Some also point out that the refugee status determination process itself may be a disabling experience. Stress due to detention, and prolonged waiting periods can create long-term impairments or aggravate existing ones (Laban *et al.* 2008; Silove 2007; Ryan 2009). Disability can thus arise as a consequence of a lack of protection and assistance.

Secondly, disability may become a barrier to accessing protection. Depending on the nature of the impairment, an existing disability may impact on the access of asylum seekers to a fair asylum procedure. Ignorance of mental impairments, for example, may jeopardize access to protection as applicants may fail the credibility assessment and are often denied legal representation (Kanter *et al.* 2001; Silove *et al.* 2006).

Thirdly, certain assistance needs may have to be met upon reception of asylum seekers with disabilities. In particular, inadequate support in terms of health care, accommodation and social security may have disproportionate effects on persons with disabilities (Bollini 1997; Kelley and Stevenson 2006; Roberts 2006; Laban *et al.* 2007). Since there still little data on asylum seekers with disabilities (Ward *et al.* 2008) and many will be reluctant to self-identify (Refugee Council 2005) such needs often go unnoticed.

Fourthly, the literature review points to a significant dearth of understanding disability as a cause of displacement. The few exceptions focus on the qualification of persons with disabilities for refugee status under membership of a particular social group (Kanter and Dadey 2000, Parekh [Date Unknown]) or discuss non-refoulement to torture, inhuman or degrading treatment or punishment (Nowak and Suntinger 1995).

This lack of theoretical engagement with protection needs of persons with disabilities seems to reflect practice. Adopting a social and human rights based approach the Women's Refugee Commission (2008: 32) found that 'almost without exception, all the refugees involved in the field studies mentioned discrimination, stigmatisation, harassment, neglect and exclusion of persons with disabilities as major protection concerns, both within their own communities and in the host communities.'

Finally, disability may interact with asylum in a way as to create multiple barriers. Research projects applying the social model have shown the cumulative disadvantage that may result from being disabled, belonging to a minority ethnic group and being an asylum seeker (Harris 2003: 393). Barriers arising from communicating in a foreign language or xenophobia familiar to minority ethnic groups combine with social exclusion due to disability (Wilding and Vic 2002: 158; Vernon 1996).

Asylum seekers face the additional barrier of exclusion from citizenship. Situated outside the 'national order of things' (Malkki 1995) they find no guarantor of their rights and often rely on the soft law of the international human rights regime. In recent years, European states have raised their territorial borders and restricted the rights of those inside them in order to counterbalance the influence of the human rights discourse (Geddes 2000). Asylum seekers in particular have suffered from such restrictions as they have become dissociated from 'genuine refugees' and placed among those 'undeserving' of protection and assistance (Zetter 2007: 181).

The review of the literature has shown that disability may interact with asylum in various ways: It may be cause or consequence of displacement and it may become a multi-fold barrier to accessing both protection and assistance. An initial literature research also revealed a continuous association of disability with the medical model resulting in the invisibility of persons with disabilities in the context of displacement.

The preceding overview of the approaches to disability suggests that asylum seekers with disabilities remain invisible not because of their absence but because as persons with disabilities they are likely to face discrimination within their societies of origin and the host societies. It is therefore necessary to bring disability to the forefront of reflections about our own societies and those of the displaced.

Disability and asylum in Europe

In the context of asylum, a social and human rights based approach is best equipped for this task, since asylum seekers rely heavily on the normative framework of human rights for the guarantee of their rights. Moreover, this framework is particularly relevant for evaluating policies of the European Union which has itself shifted from the medical model to a social and rights based approach in recent years. As the first disability action plan outlines, 'the EU's long-standing commitment towards its disabled citizens goes hand in hand with a new approach to disability: from seeing people with disabilities as the passive recipients of compensation, society has come to recognise their legitimate demands for equal rights' (European Commission 2003: 4).

Although there is no commonly agreed definition of disability, Community law protects persons with disabilities under the principles of non-discrimination and equality. In the legal context equality is understood as the prohibition of discrimination on the basis of a social or civil status (McCrudden 2003: 9). Disability is recognised as one such protected status and various legal instruments implicitly or explicitly prohibit discrimination on this basis.³ The EU thus recognises that persons with disabilities are likely to experience discrimination and promotes their protection against such treatment.

In addition, the EU has put in place a policy framework (European Commission 2003, 2005, 2007) which seeks to create equality of opportunity. Under this framework, the EU aims to provide assistance to persons with disabilities on the basis of their 'individual and diverse needs' (European Commission 2007: 11). Additionally, it acknowledges disability as a 'social construct' (European Commission 2003: 4) and promotes the removal of the social and environmental barriers for persons with

³ The Treaty on European Union (European Union 2010a) upholds the general principle of non-discrimination (Art. 2 and 3). The European Charter of Fundamental Rights explicitly prohibits discrimination on the basis of disability in Art.21 and 26 (European Union 2010b).

disabilities. It further aims to mainstream a 'rights-based' approach into other areas of Community policy (European Commission 2005: 3).

Taken together, these provisions in Community law and policy demonstrate a strong commitment to safeguarding the rights of persons with disabilities. The holistic understanding of disability core to the UNCRPD thus seems to enjoy strong promotion in the European Union. The EU has further demonstrated its commitment to a social and *human* rights-based approach by jointly signing the UNCRPD. In theory, this commitment encompasses all persons on EU territory and under its jurisdiction, including asylum seekers. The intention to mainstream the rights-based approach into other areas of Community policy thus could extend to asylum policies.

In practice, however, Member States do discriminate between the rights of nationals and non-nationals enacting their sovereignty not only at their borders but increasingly within them (McAdam 2005a, Guild 2007). Asylum seekers are therefore likely to find themselves in a situation of legal limbo until a decision on their claim is made. It is the proclaimed intention of the Common European Asylum System to improve this situation by creating binding standards for the qualification, procedures and reception conditions of asylum seekers. This suggests that a harmonization process adopting the shared values outlined above could play a role in advancing the rights of asylum seekers with disabilities.

However, harmonization is not an easy endeavour. The recast proposals of the directives reflect the tension arising between the interests of two camps of stakeholders. On the one hand, the particular discourses of sovereignty, efficiency and migration control present in the explanatory memoranda are indicative of the audience of the recast proposals - sovereign states reluctant to commit their resources and eager to efficiently 'solve' the asylum problem:⁴

The envisaged measures are expected to improve the coherence between EU asylum instruments [and] lead to more robust determinations at the first instance, thus preventing abuse and improving efficiency of the asylum process. (European Commission 2009c: Explanatory Memorandum)

On the other hand, this is interwoven with a discourse of human rights, advanced by the European Commission and NGO responses to the Green Paper on the Future of the Common European Asylum System⁵:

The main objective of this proposal is [...] to ensure higher standards of treatment for asylum seekers with regard to reception conditions that would guarantee a dignified standard of living in line with international law (European Commission 2008: Explanatory Memorandum)

The harmonization process thus lays bare the tension inherent in the commitment of

⁴ For example the Federal Republic of Germany (2007) declared that 'a sweeping demand merely for a generally higher standard of protection lacks balance. Just as more stringent standards of protection must be achieved where refugees are not given adequate protection, where these shortcomings are due to legislative deficiencies and not deficiencies in terms of enforcement, "restrictive" regulations must ... be retained and tightened up.'

⁵ See n.2

states to both international human rights norms and the sovereign principles of territorial control and internal authority. As a consequence the recast proposals of the directives are likely to be a compromise between clear and binding standards and vague provisions that allow for flexible interpretations by member states.

It is arguable that a certain level of vagueness in legal documents helps ensure their broad application to various contexts and situations. However, experience with the current directives points not to a legal motivation but a concerted political one. Jörg Gebhard (Interview, 19/04/2010) from the Centre for Equal Opportunities and Opposition to Racism in Belgium criticised the interests of member states in vague provisions:

The uncertainties or ambiguities in the terminology are often deliberate. The adoption of the directives is a back-and-forth ... If one couldn't keep it all very general, it would be hard to deny responsibility.

As the interviewee indicated, vague provisions have served to create loopholes in national interpretations of the current directives that have jeopardised access to protection and assistance for asylum seekers. The recast proposals for the directives therefore propose to close the deliberate gaps arising from harmonized standards on paper and their 'flexible' implementation in practice (European Commission 2009b: 11).

An area which has received particular attention in the legislative push for higher standards are the provisions for 'vulnerable' applicants and persons with 'special needs'. As Blanche Tax from UNHCR, Brussels, outlines:

It became clear that the area of persons with special needs ... or vulnerabilities was an area where state practice was not very specific and the obligations under the present Directive are not very precise. (Tax, Interview, 20/04/2010)

It is under these provisions that persons with disabilities are addressed. Given the lack of guidance in this area, asylum seekers with disabilities may currently not experience disability-sensitive procedures or reception conditions, let alone have their personal circumstances taken into account in the context of qualification. Of particular interest is therefore whether the recast proposals introduce clear and binding standards to foster respect for the rights of persons with disabilities.

Following an overview of the findings⁶ from the discourse analysis I shall give particular consideration to the context in which the recast directives were written, examining the role of member states and external agencies.

Asylum seekers with disabilities in the directives

An analysis of the recast directives allows to discern the extent to which disability is taken into consideration at the level of qualification, procedures and reception conditions. Under the current directives there are limited general safeguards for the category of 'vulnerable' groups. The recast directives expand the provisions for this

⁶ A detailed discussion of the directives can be found in a forthcoming article in *Disability & Society*, Special Issue: Shifting Boundaries, 2011.

category of applicants under which persons with disabilities are currently subsumed. Hence, persons with disabilities can in many ways expect a fairer and more accessible asylum process.

Nonetheless, the association of disability with vulnerability is contested. For example, asylum seekers with disabilities may have specific needs which can render them vulnerable in some contexts, yet they may also be unjustly ascribed a label of vulnerability due to a lack of awareness of their capabilities. As Janina Arsenjeva, policy officer of the European Disability Forum points out, many activists would object the idea of being vulnerable simply because of their disability:

Disabled doesn't mean vulnerable, unless [there is] a very good reason for this vulnerability, but disability itself is not the reason for that. I'm not more traumatised because I don't have a leg or I'm blind, for example. (Arsenjeva, Interview, 19/04/2010)

It depends on the context and the impairment of the individual applicant whether or not he or she is vulnerable. A close examination of the concept of vulnerability and its linkage to disability in the three recast proposals is thus necessary.

In the context of the recast proposal for the reception conditions directive, the concept of vulnerability is closely linked to the 'special needs' of the individual applicant. Under Article 21 of the recast, persons with disabilities are considered to belong to a category of vulnerable applicants which 'shall always be considered to have special needs'.

The recast proposal for the reception conditions directive introduces strong and explicit provisions for persons with 'special needs' in the context of health care, where it provides for their access to medical or other assistance on the same basis as nationals (Article 19(2)). Applicants with 'special needs' are also exempt from detention unless an 'individual examination of their situation by a qualified professional certifies that their health, including their mental health and well-being will not significantly deteriorate as a result of the detention' (Article 11(5)). This is a significant safeguard for persons with disabilities whose impairment may add to their vulnerability in detention.

However, the automatic association of vulnerability with special needs has raised some questions among stakeholders in the field. Should vulnerability be seen as a predetermined concept and do all 'vulnerable' persons automatically have special needs? An interviewee from UNHCR in Brussels explained the implications of this in the following way:

If you look at the vulnerable groups and the list, that gives you in a way a predetermined concept. So what you would then need to do is to check if a person falls within those groups and then automatically it is assumed that they have special needs. (Tax, Interview, 20/04/2010)

The interviewee pointed out that within UNHCR the tendency was to move away from general assumptions about vulnerability and special needs and instead assess whether an individual had specific needs in a given context, depending on his or her personal circumstances. This reflects above the statement by the Janina Arsenjeva of the European Disability Forum cited above.

It is thus commendable that the recast of the Reception Conditions Directive seeks to avoid such generalisations by proposing individual assessments in order to establish an applicant's special needs. This is a significant step towards the realisation of the rights of persons with disabilities who may have a diverse range of impairments and degrees thereof and thus varying assistance needs. While this provides for a nuanced approach in the context of reception, the difficulties with linking the concept of vulnerability to certain groups become apparent in the other directives.

The asylum procedures directive also recognises the 'special needs' of 'disabled people' and provides for 'special guarantees in order to benefit from the rights and comply with the obligations in accordance with this Directive' (Article 2(d)). However, many of the asylum procedures directive's key provisions remain linked to a group-based understanding of vulnerability: They introduce specific safeguards only for certain categories such as 'traumatised applicants' and 'victims of torture', while remaining silent on the specific needs of other vulnerable applicants. In the absence of an individual assessment, the barriers persons with disabilities face may remain invisible.

Take the example of the exemption of traumatised applicants and victims of torture from accelerated procedures. In this context, an individual assessment might reveal similar 'special needs' in interview settings for traumatised applicants and persons with mental or intellectual disabilities. Applicants with post-traumatic stress disorder or another mental or intellectual impairment are likely to face similar difficulties recounting an event with coherence, gather evidence and cope with the bureaucratic process (UNHCR 2007a). However, under the current recast proposal and in the absence of individual assessments in this context, only traumatised applicants and victims of torture are exempt from accelerated procedures.

Furthermore, the recast of the asylum procedures directive illustrates a problem that may arise out of the close connection of vulnerability to special needs. While persons with disabilities may have particular needs for treatment or reasonable accommodations often denied to them, they are equally likely to face stigmatisation when being labelled as vulnerable and deemed to need 'special' treatment in all contexts. This may lead to a denial of their capabilities, especially if no due regard is paid to the diversity of impairments and degrees thereof. While a person in a wheelchair may require certain accommodations for the accessibility of court and official buildings to meet procedural requirements, this does not usually affect their ability to recount their story in an interview.

Given the widespread and continuous discrimination against persons with disabilities, the lack of safeguards to avoid such stereotyping resulting from the ascribed label is concerning. In particular, it may have significant negative impacts for persons with mental or intellectual impairments. Under Article 13(2)(b) of the recast directive, interviews may be omitted if the applicant is deemed 'unfit or unable' to attend an interview. In some cases medical advice may be sought.

However, there is no legal safeguard ensuring that this procedure respects the rights to legal capacity of persons with disabilities. The respect of the legal capacity of persons with mental or intellectual disabilities, however, is one of the key provisions of the UNCPRD (Al-Tarawneh, Communication, 06/05/2010). A reference to training on disability-awareness as required by article 8 and 13 of the UNCPRD would thus be crucial and its omission is a major gap in the current recast proposals.

The recast proposal which provides the least indications of how to conduct a disability-sensitive status determination, however, is the qualification directive. It only considers disability in the context of health care for those who already have the status of beneficiaries of international protection. Although this is important, the omission of any discussion of how a disability could be related to the persecution and claim of the applicant is striking. There is no reference to disability-specific persecution to help the identification of such cases.

Disability-specific forms of persecution may include the systematic denial of socio-economic rights such as access to health care or education and the personal circumstances of the applicant may lead to persecution on cumulative grounds. Furthermore, although membership of a particular social group has proven to be highly relevant in the assessment of the claims of persons with disabilities (see Kanter 2000 ; *Tchoukhrova, LXC (Re)*, *BOG (Re)*, *I-P-J (Re)* cited in Foster 2007) and its inclusion has been suggested by the UNHCR (UNHCR 2004: 23, 2007b) only gender is included as a personal attribute requiring particular consideration.

The contrast between the strong provisions of the reception conditions directive's recast with regards to health care supported by the individual assessment and the less specific safeguards for persons with disabilities in the other two directives may reinforce perceptions that persons with disabilities are mainly 'patients' whose rights are most relevant in the context of specific assistance needs.

Due to a lack of specific indications of the various social and legal barriers that asylum seekers with disabilities face, the asylum procedure is likely to remain powerfully exclusionary. Particularly striking is the absence of interpretative guidance in the context of qualification for asylum. Asylum seekers with disabilities may thus continue to face discrimination and barriers to accessing protection as there is little awareness of their capabilities, their diversity and their human rights.

The invisibility of the barriers arising for persons with disabilities is in stark contrast with the visibility of the categories of traumatised applicants, gender and children or minors. For these groups, the most comprehensive amendments have been proposed. For example, specific training on gender- and age- awareness is included in the asylum procedures directive's recast yet no such training can be found in relation to disability. While recast proposal for the qualification directive mentions gender/women and minors/children in relation to persecution, persons with disabilities are only mentioned in relation to assistance-related provisions.

The strong image of general vulnerability emerging for these groups adds to the risk that persons with disabilities are overlooked. Regarding qualification and procedures whether or not asylum seekers with disabilities will find refuge in Europe still largely turns on the interpretations provided by individual member states. Experience with the last generation of directives indicates that there is little hope that interpretations will be generous.

Explaining the gaps

Vague or flexible provisions thus still prevail with regards to disability in the recast Directives. Building on insights from the interviews I will seek to provide an

explanation for these findings by looking to the structures and perceptions underlying the harmonization process. As outlined at the beginning of the article, harmonization is a process marked by a tension between state sovereignty and human rights advocacy.

The interviews point to the particular disadvantage that asylum seekers with disabilities face in this context: On the one hand, some states are especially reluctant to grant protection or assistance to persons with disabilities. On the other, there is a considerable lack of advocacy for the human rights of asylum seekers with disabilities. I will discuss these issues in turn and then analyse how they impact on the chances of persons with disabilities to find refuge in Europe.

A lack of political will

In some instances, the reasoning for providing more specific safeguards for certain groups seems to be policy driven, rather than based on a coherent definition of 'special needs' or 'vulnerability'. An analysis of the policy process shows that several group categories were recognised in the initial discussion of the recasts. For example, the Commission Staff Working Document (2009a: 31) had recommended 'to exempt survivors of torture, persons with mental disabilities and unaccompanied minors from accelerated procedures, based on the notion of manifestly unfounded applications.' This would have recognised the particular barriers arising for persons with mental or intellectual disabilities in the credibility assessment. However, of the three groups mentioned above only victims of torture and unaccompanied minors are exempted from accelerated procedures (Art.20(2) and (3), Art. 21(6)).

When one of the Commission officials was asked about the justification for not including applicants with mental disabilities, he could provide no convincing answer. Although he indicated that victims of torture needed additional time to recover emotionally, other needs were strikingly similar to those of applicants with mental or intellectual disabilities:

Victims of torture represent a special case because [they] have problems in articulating their reception needs, in substantiating their application, in remembering. They may [also] suffer from flash-back effects.
(Commission official B., Interview, 29/04/2010)

The distinctness of the category of victims of torture is questionable. Persons with mental or intellectual disabilities may also face particular difficulties in substantiating their claim, recalling accounts with coherence or articulating their reception needs (see UNHCR 2007a: para. 11; Amnesty 2007: 33). Given such overlapping needs, an individual assessment would seem better suited than a group based approach. The interviewee agreed that persons with mental or intellectual disabilities may face similar constraints as victims of torture in accelerated asylum procedures, yet mentioned the difficulty of getting even the current proposal adopted (Commission official B, Interview, 29/04/2010). This points to the policy considerations that have influenced the recast proposals and are at play in the current negotiations.

As outlined, the EU's strong commitment to the values of the social model and the human rights of persons with disabilities in policy is not reflected in the recast proposals. In fact, the directives are partially indicative of a failure of member states to

jointly shift to a human rights based and social model approach to disability. This results in a reluctance to tackle discrimination leaving particular normative gaps for asylum seekers with disabilities.

There is only one Directive currently prohibiting discrimination on the grounds of disability, the Employment Directive (European Council 2007). The proposal for a broader non-discrimination Directive covering disability, age, religion and sexual orientation faces strong opposition. Jan Jarab from OHCHR Europe, who had been involved in the drafting process, remarked that the main opposition had been based on the financial costs of the Directive. The interviewee suggested that this opposition was based on a reluctance of one particular member state to create accessible environments and equal opportunities for persons with disabilities (Jarab, Interview, 19/04/2010). This reluctance to commit resources for persons with disabilities has led to what the interviewee described as a wider 'hierarchy of discrimination grounds.'

In present there is ... a hierarchy of discrimination grounds, because the protection of an individual from discrimination on the grounds of race or ethnicity is across the board, that is employment, education, access to goods and services, including housing, social protection and social advantages and health care. For disability, age, religion, sexual orientation, it is only in the employment context ... This obviously could not have been in the interest of the European legislator. (Jarab, Interview, 19/04/2010)

This broad resistance has constrained the scope of amendments proposed in the recasts. Moreover, the definition of disability remains contested. While some member states adopt a broad definition, others limit their definition of disability to a small group of 'visible' impairments:

'A lot of member states said: "But in disabilities we include any person that might have any problem to be integrated into society." They take the widest definition. Some member states say: "No, for us, disability is something visible." (Commission official C., Interview, 21/04/2010)

The question thus arises how broadly defined the group of beneficiaries of special safeguards is. As the impact assessments of the recast proposals demonstrate, this question is linked to a consideration of the financial resources that will have to be committed (European Commission 2008, 2009a, 2009b). Kris Pollet from the European Council on Refugees and Exiles explains:

From the political perspective the fact that the definition of an applicant with special needs is so broad is something that may raise some problems, because especially from a member state perspective the financial impact is of course a very important element. (Pollet, Interview, 21/04/2010)

However, if Member States' interests were the only consideration, one would expect the explicit provisions for other groups to have faced similar resistance. Unaccompanied minors, for example, are one of the groups several member states are currently eager to return to their countries of origin (Pollet, Interview, 21/04/2010) yet safeguards for this group have been expanded. Clearly there are other factors at play.

A lack of advocacy

Asked further why certain groups had received particular attention in the recast proposals but disability had been given less consideration, the Commission official defended the legislators by pointing to the structural constraints they faced:

I think we are very traditional in this respect. I don't think there have been many studies on the specific issue of disability. I don't think UNHCR has pronounced itself very often on this issue. As far as I know the EXCOM Conclusions are being negotiated now. The Convention on the Rights of Persons with Disabilities is also recent. So traditionally, in the context of asylum law, refugee law, the main focus has been on gender and age. (Commission official B., Interview, 29/04/2010)

The lack of advocacy on behalf of persons with disabilities has resulted in difficulties with substantiating certain provisions that were initially foreseen by the Commission. Consider again the example mentioned above, the exemption of applicants with mental disabilities from accelerated procedures. When asked why the provision was not included in the final text, the interviewee explained:

Our analysis is very much based on what is available ... Not all the proposals initially foreseen have been included in the final document for very simple reasons: We lacked justification and empirical data. (Commission official B., Interview, 29/04/2010)

I have outlined that one explanation of general vagueness in the recast Directives is the reluctance of member states to allow for further specifications of the rights of persons with disabilities. The interviewee's comments point to the second explanation that may be advanced: the lack of human rights advocacy on disability as a counterbalance to member states' sovereign interests. Indeed, in the process of this research few examples of disabled people's organisations addressing the issues facing asylum seekers were found.

No mainstream disability organisation had participated in the policy process of drafting the European Directives and few submissions to the Green Paper explicitly proposed safeguards for persons with disabilities (Caritas 2007; European Women's Lobby 2007; Foro Integración Inmigrantes 2007; Nascimbene and Oscello 2007; Red Cross 2007; Refugee Women's Association 2007). Janina Arsenjeva, policy officer of the mainstream organisation representing persons with disabilities in the European Union outlined the reasons for this lack of engagement in the case of her organisation:

If there was a lead organisation that worked on this issue, we would never say 'No, we are not interested in supporting you.' But [there] is also the heavy workload that we already have to address, the problems in Europe, and there is only very little we can do. (Arsenjeva, Interview, 19/04/2010)

The interviewee points not only to continuing discrimination against persons with disabilities *within* Europe, re-affirming the concerns expressed earlier at the lack of disability-awareness training, but also points to the lack of expertise of her organisation

and the need for a lead agency. It is thus worth examining the role and positions of the agencies prominent in European asylum policies.

The silence of the lead agencies

A brief overview of UNHCR's position provides the context for exploring how the agency holding the strongest protection mandate in the refugee regime has influenced this focus on the traditional groups and why disability has received less attention. Unlike the protection of women and children the issue of disability, as one of the UNHCR officials stated, 'is an issue relatively new to the consciousness of the organisation' (UNHCR official, Interview, 12/04/2010).

Indeed, previous Executive Committee Conclusions demonstrate little awareness of a social and human rights based approach to disability (UNHCR 1987, 1994). The first manual on 'Assisting Disabled Refugees' (UNHCR 1996) focused, as the title suggests, on assistance and the approach was reminiscent of the medical model (Refugee Women's Commission 2008: 38). The Global Consultations of 2001 demonstrated a lack of awareness by referring to persons with mental disabilities as 'psychologically disturbed persons' (UNHCR 2001: para. 44).

Certainly, the UNCRPD has given momentum to discussions about disability within UNHCR. Several recent documents demonstrate a shift towards a social and human rights based approach (UNHCR 2007a, 2008a, 2008b, 2008c, 2009a). A conclusion of the Executive Committee of UNHCR on persons with disabilities is in the drafting process. However, given the centrality of organisation in the refugee regime, reasons for this late awakening to the protection of persons with disabilities deserve further discussion.

How have women and children, become the 'traditional groups' and why have persons with disabilities been neglected? To answer this question an understanding of the role of UNHCR in Europe and outside of Europe is necessary. In Europe, UNHCR takes on primarily an advocacy role and interaction with the individuals it is mandated to protect, including asylum seekers, is highly limited. Outside of Europe, UNHCR often takes on a much more practical role of providing assistance. Interviewees at the European office of UNHCR have explained that the focus on the vulnerability of women and children arose in the context of this practical engagement:

Tax: I think a lot relates to the fact that UNHCR is to a large extent an operational organisation, running refugee camps, trying to provide protection in field situations. In many of those situations, the special needs relating to those more traditional groups have come a bit more to the fore or were the ones spotted relatively easily.

Novak: In the context of large operations of repatriation the definition of special needs was something that occupied us ... For instance, a woman that is pregnant is a woman with some vulnerability, some special needs. So 'Which tailored assistance do you have to have in place at the various stages of your operation?'...is a question we had to ask. (Tax and Novak, Interview, 20/06/2010)

Awareness of the complex vulnerability and specific needs of women and children seems to have helped the recognition of their protection needs resulting in the formulation of guidelines or interpreting Article 1A(2) of the Refugee Convention relevant for the qualification for refugee status (UNHCR 2002, 2009b). For persons with disabilities, this development has not taken place since they are not 'spotted' so easily. Indeed, awareness for their presence only recently arose out of an evaluation of UNHCR's Age, Gender and Diversity Mainstreaming strategy. Naoko Obi, head of UNHCR's Community Development, Gender Equality and Children Section overseeing this evaluation explains:

It is difficult to identify persons with disabilities. We know that they are there but we don't have any program targeting them. There is low awareness among UNHCR field staff and NGOs and there was a high request for training sessions. Many are not aware of the UNCRPD ... There is also the issue of visibility of refugees with disabilities. We do not see them because they are kept inside as their family feels it is a shame that a member has a disability. (Obi, Interview, 17/03/2010)

As a consequence of this lack of interaction the specific protection needs of persons with disabilities are seldom recognised. Their invisibility is caused by both a lack of awareness among persons working in the displacement context, as well as by the stigma attached to persons with disabilities in their own societies. Stressing the need to address disability in UNHCR's field operations, the interviewee outlined that it was necessary to consciously reach out to this specific group which is often forgotten. However, this insight has not yet permeated into practice.

In the European context, the likelihood that this group is forgotten remains high. Due to the focus of UNHCR in Europe on legal protection, issues arising in an operational context may receive less attention. For example, the only section of UNHCR currently focusing on persons with disabilities is located in Geneva and deals with what one interviewee described as 'social issues' rather than 'legal protection' issues (UNHCR Official, Interview, 12/04/2010).

However, as outlined above, 'social issues' such as discrimination and misperceptions about disability are highly relevant for understanding the barriers persons with disabilities face to accessing protection rendering a distinction between social and legal domains of work problematic. Consider the lack of awareness about disability which Naoko Obi had pointed out. The analysis of the asylum procedures directive's recast has revealed that low awareness about the diversity of persons with disabilities may pose significant barriers in the context of the personal interview.

While UNHCR officials in Brussels were critical of the group-based notion of vulnerability there was not yet a concerted effort to address this issue in relation to disability. The only instance in which disability was mentioned in the context of the Common European Asylum System is a reference in the response to the Green Paper (European Commission 2007) suggesting to define the concept of membership of a particular social group 'in a flexible manner so as to include inter alia groups based on gender and sexual orientation, age, disability and health status as defining characteristics' (UNHCR 2007b: 24). No specific advocacy for disability-awareness training, specific procedural safeguards or the general interpretation of the refugee definition in relation to disability can be found. There is thus a lack of sharing practice

among the offices which leads to a persistent invisibility of asylum seekers with disabilities in the European context and a focus on gender and age-related issues.

Similarly 'traditional' ideas about vulnerable groups can be observed with the European umbrella organisation. The European Council on Refugees brings together various stakeholders that fulfil assistance roles within the EU. The definition of vulnerability adopted by the agency is largely focused on some specific groups. According to a member of staff, this definition 'has organically grown, true to practice' (Pollet, Interview, 21/04/2010). Persons with disabilities, however, have not found their entry into this definition. Kris Pollet (Interview, 21/04/2010), ECRE's senior advocacy officer, explained:

The definition of vulnerable applicants for us is more the traditional issue of unaccompanied minors, but also more and more so, applicants who are traumatised, victims of torture, etc. But it's a good point, we haven't really defined that (vulnerability) in so many words (Pollet, Interview, 21/04/2010)

Despite the increasing awareness for traumatised applicants asylum seekers with mental or intellectual disabilities, who may face similar procedural barriers, have remained invisible.⁷ The interviewee was himself unsure why the issue had not been considered. This suggests that in the same way as persons with disabilities may be invisible in refugee camps, they may remain unnoticed in the context of asylum in Europe. Neither UNHCR nor ECRE have yet consciously reached out to this group but both focused on groups that are more visible in the context of asylum.

Certainly, advocacy organisations have to concentrate their resources efficiently and only a limited number of issues will find approval with all member states. Some of the interviewees therefore argued that the small size of the group of persons with disabilities was the major reason why other, larger groups had been given preference (UNHCR official, Interview, 12/04/2010, Commission official A., Interview, 07/05/2010).

However, even though the numbers may be smaller than those of the 'traditional groups', this can hardly be a justification for the continuous neglect of persons with disabilities in the context of protection. Neither should it be a reason to deny assistance. The special rapporteur on the draft Executive Committee Conclusion on persons with disabilities advanced a strong counter argument to allegations that the size of a group should be relevant. Reflecting on the context of camps she stated:

Everyone in a refugee camp is vulnerable but there is these 3-4% who are even more vulnerable. And these most vulnerable need to get assistance, especially when the resources are limited. (Pitotti, Interview, 17/03/2010)

It should be the vulnerability of the individual, not the size of a group which determines access to protection and assistance. Likewise, to advocate for considering persons with disabilities as yet another group that is always vulnerable would be mistaken. The analysis of the directives has revealed that impairments are far too diverse to assume

⁷ The only reference to disability provided by ECRE was found in the 2007 Green Paper pointing to the necessity to provide a definition of family in the QD that would include persons with disabilities.

that there would always be specific protection or assistance needs. Rather, an impairment should be seen as an indicator of a *potential* vulnerability. Interviewees from Jesuit Refugee Services outlined the parameters of such an approach:

Amaral: The question is never asked: vulnerable to what? It's just a vulnerability. And usually you are vulnerable to something. You have special needs but you can't just be vulnerable in and of itself without something else in your environment that would weaken you...It's not just about certain groups. It's more about the interplay of factors.

Keßler: So our definition of vulnerability somehow meets with the official definitions of persons with disabilities. Persons with disabilities [are] not disabled per se, but the circumstances the person finds her- or himself in makes her or him disabled. (Amaral and Keßler, Interview, 21/04/2010)

It is thus necessary to investigate how non-disabling environments may be created, and to assess the dimensions of vulnerability of the individual applicant rather than retaining a group based approach. Persons with disabilities will continue to have difficulties finding refuge within the European Union if this is not provided.

To summarise, the interviews have pointed to the difficulty of advancing the rights of asylum seekers with disabilities in a context of ongoing discrimination against persons with disabilities within member states of the European Union. In particular, this reluctance seems to be linked to a general perception of asylum seekers as a burden and a specific association of asylum seekers with disabilities with resource intensive assistance needs.

In the context of a 'shrinking asylum space' (Guterres 2009) the reinforcement of these perceptions by the Directives is particularly problematic. The recast directives may standardize an understanding of disability which reinforces the restrictionist stance across Europe where asylum has come to be seen as a backdoor to accessing welfare assistance (Schuster 2000, Zetter 2007). Consider Zola's observation (1989: 420):

By seeing people with a disability as "different" with "special" needs, wants, and rights in this currently perceived world of finite resources, they are pitted against the needs, wants, and rights of the rest of the population.

Persons with disabilities do of course have specific needs and their impairments, as disability theorists have outlined (French 1994), should not be ignored. Yet what is needed is to change our perceptions of the legitimacy of these needs and integrate them into a context of equal human rights. To see the provision of assistance to persons with disabilities as a charitable act, for example, is unacceptable. Rather, as Article 2 of the UNCRPD outlines, the denial of reasonable accommodation is a form of discriminatory treatment. Moving beyond the medical model to a social and human rights based approach will help to bridge divides between protection and assistance and allow for the recognition that denying one or the other will always be a violation of the rights of persons with disabilities. This may find resistance within some member states. Yet while in the process of harmonization, such 'state interests may have their place ... the sovereignty of the state exists within a community of principle' (Goodwin-Gill

2001:160). It is time advocacy agencies remind all member states of the European Union of these principles: the respect of fundamental human rights of all on an equal basis.

Conclusion

There is no doubt, that an adoption of the current recast proposals would represent a significant progress for the rights of all asylum seekers. However, this article also points to the difficulties with the concepts of 'vulnerability' and 'special needs' and their application to persons with disabilities. Furthermore, adopting a social and human rights based approach to disability, the barriers that asylum seekers with disabilities may face due to vague provisions have become visible.

The current gaps may be explained by the lack of a concerted effort on behalf of the actors involved in the drafting process: member states and civil society organisations. The research has shown that despite the general endorsement of principles of non-discrimination in Community law, there is currently no common approach to disability. Resistance from some member states continues to prevent a strong support for non-discrimination legislation protecting persons with disabilities. Since asylum seekers are construed outside such legal boundaries, their access to the few provisions in place is even more limited.

Nonetheless a strong argument can be made for their case in refugee law and under international human rights law with particular reference to the UNCRPD. A specific articulation of these rights could provide a counterbalance to the boundaries raised by sovereign states. Interviews revealed, however, that there is currently a lack of advocacy for such interpretative guidance, leading to continuous protection gaps.

Two main challenges remain for asylum seekers with disabilities seeking refuge in Europe. First, there is a continuous association of disability with assistance which has led some Member States to adopt restrictive policies and guard their resources. Second, efforts to advance the human rights of asylum seekers have been influenced by a group based approach which does not cover persons with disabilities. The recast proposals not only reflect these tendencies but may lead to their reproduction and reinforcement.

Guidance on a disability-sensitive interpretation of the Directives and the 1951 Refugee Convention would therefore allow filling normative gaps in the current regime and creating equal opportunities for all persons seeking asylum in the European Union. Achieving this for asylum seekers with disabilities will mean overcoming both legal and attitudinal barriers to ensure their full and equal access to protection and assistance.

Finally, during the course of the research the diversity of needs and capabilities of persons with disabilities have become apparent. The specific provisions in different Directives and their relevance for persons with disabilities were often difficult to negotiate on a broad basis. It is therefore necessary to provide refuge not to 'persons with disabilities' as an allegedly cohesive group, but assess individually their capabilities and vulnerabilities. Interpretative guidance thus needs to be combined with individual assessments and awareness-raising in order to ensure the implementation of a disability-sensitive refugee status determination in the future Common European Asylum System.

REFERENCES

Secondary sources

- ABBERLEY, P.** (1987) 'The Concept of Oppression and the Development of a Social Theory of Disability', *Disability, Handicap and Society*, **2**(1): 5-19.
- AHERN, L. and ROSENTHAL, E.** (2005) 'Behind Closed Doors: Human Rights Abuses in the Psychiatric Facilities, Orphanages and Rehabilitation Centres of Turkey', *Disability Rights International*.
- AHERN, L. and ROSENTHAL, E.** (2006) 'Hidden Suffering: Romania's Segregation and Abuse of Infants and Children with Disabilities', *Disability Rights International*.
- AHERN, L. and ROSENTHAL, E.** (2007) 'Torment Not Treatment: Serbia's Segregation and Abuse of Children and Adults with Disabilities', *Disability Rights International*.
- BLEICH, A. and SOLOMON, Z.**(2004) 'Evaluation of Psychiatric Disability in PTSD of Military Origin' *Israel Journal of Psychiatry and Related Sciences*, **41**(4): 268-276.
- BLEICH, A. DEKEL, R. and SOLOMON, Z.** (2004) 'The Contribution of Social Disability to the Evaluation of Mental Disability Among PTSD veterans', *Israel Journal of Psychiatry and Related Sciences*, **41**(4): 237-247.
- BOLLINI, P.** (1997) 'Asylum seekers in Europe: Entitlements, Health Status, and Human Rights Issues', *European Journal of Health Law*, **4**(3): 253-265.
- BRADLEY, L. and TAWFIQ, N.** (2006) 'The Physical and Psychological Effects of Torture in Kurds Seeking Asylum in the United Kingdom', *Torture: Quarterly Journal on Rehabilitation of Torture Victims and Prevention of Torture*, **16**(1): 41-47.
- BURNETT, A. and PEEL, M.** (2001) 'The Health of Survivors of Torture and Organised Violence', *BMJ*, **322**: 606-609.
- CARITAS** (2007) *Comments on the European Commission's Green Paper on the future Common European Asylum System*, COM (2007) 301 final.
- COWEN, T.** (2003) *Suffering Alone: An Examination of the Mental Health Needs of Asylum Seekers and Refugees in Barnett*, London, Refugee Health Access Project.
- DEGENER, T.** (1995) 'Disabled Persons and Human Rights: The Legal Framework', 9-39 in Degener, T. and Koster-Dreese, Y., (eds.) (1995) *Human Rights and Disabled Persons: Essays and Relevant Human Rights Instruments*, Dordrecht: Martinus Nijhoff Publishers.
- EDWARDS, A.** (2005) 'Human Rights, Refugees and the Right "To Enjoy" Asylum', *International Journal of Refugee Law*, **17**(2):293-330.
- EUROPEAN COMMISSION** (2003) *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Equal opportunities for people with disabilities: A European Action Plan*, COM(2003) 650 final, 30.10.2003. Available from: <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2003:0650:FIN:EN:PDF>> (Accessed

03 March 2010)

EUROPEAN COMMISSION (2005) *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Situation of disabled people in the enlarged European Union: the European Action Plan 2006-2007*, COM(2005) 604 final, 28.11.2005. Available from: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SPLIT_COM:2005:0604%2801%29:FIN:EN:PDF> (Accessed 03 March 2010)

EUROPEAN COMMISSION (2007) *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: Situation of disabled people in the European Union: the European Action Plan 2008-2009*, COM(2007) 738 final, 26.11.2007. Available from: <<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0738:FIN:EN:PDF>> (Accessed 03 March 2010)

EUROPEAN COMMISSION (2008) *Commission Staff Working Document accompanying the Proposal for a Directive of the European Parliament and of the Council laying down minimum standards for the reception of asylum seekers (Recast) - Impact Assessment*, COM(2008) 815 final, SEC(2008) 2945, Brussels, 03.12.2008

EUROPEAN COMMISSION (2009a) *Staff Working Document Accompanying the Proposal for a Directive of the European Parliament and of the Council on Minimum Standards on procedures in Member States for granting and withdrawing international protection – Impact Assessment*, COM(2009) 554, SEC(2009) 1377, Brussels 21.10.2009.

EUROPEAN COMMISSION (2009b) *Commission Staff Working Document accompanying the Proposal for a Directive of the European Parliament and of the Council on minimum standards for the qualification and status of third country nationals or stateless persons as beneficiaries of international protection and the content of the protection granted - Impact Assessment*, COM(2009) 551, SEC(2009) 1374, Brussels, 21.10.2009

EUROPEAN COUNCIL (2007) 'Council Directive 2000/78/EC of 27 November 2000 Establishing a General Framework for Equal Treatment in Employment and Occupation', *Official Journal of the European Union*, L 303, 02/12/2000: 0016 - 0022.

EUROPEAN COUNCIL ON REFUGEES AND EXILES (ECRE) (2007) *Submission from the European Council on Refugees and Exiles in response to the Commission's Green Paper on the Future Common European Asylum System (COM (2007) 301)*, AD5/9/2007/Ext/RW. Available from: <http://www.ecre.org/resources/Policy_papers/952> (Accessed 26 May 2010)

EUROPEAN UNION (2010a) 'Consolidated Versions of the Treaty on European Union', *Official Journal of the European Union*, 2010/C 83/01, 30.03.2010: 13-46.

EUROPEAN UNION (2010b) 'Charter of Fundamental Rights of the European Union', *Official Journal of the European Union*, 2010/C 83/02, 30.03.2010: 389-403 Available from: <http://www.europarl.europa.eu/charter/pdf/text_en.pdf>

EUROPEAN WOMEN'S LOBBY (2007) *Contribution from the European Women's Lobby to the European Commission's Green Paper on the future Common Asylum System COM(2007) 301 final*, Available from: <http://ec.europa.eu/justice_home/news/consulting_public/gp_asylum_system/news_contrib>

utions_asylum_system_en.htm#civil_society> (Accessed 6 May 2010)

- FAIRCLOUGH, N.** (2001a) 'Critical Discourse Analysis as a Method in Social Scientific Research', 121-138 in Wodak, R. and Meyer, M. (eds.) (2001) *Methods of Critical Discourse Analysis*, London, Sage Publications.
- FAIRCLOUGH, N.** (2001b) 'The Discourse of New Labour: Critical Discourse Analysis', 227-266 in Wetherell, M. et al. (eds.) (2001) *Discourse as Data: A Guide for Analysis*, London, SAGE.
- FEDERAL REPUBLIC OF GERMANY** (2007) *Replies to the Green Paper on the future Common European Asylum System*, JLS/1777/07-EN, Berlin, 28 August 2007. Available from:
<http://ec.europa.eu/justice_home/news/consulting_public/gp_asylum_system/contributions/member_states/germany_en.pdf> (Accessed 02 June 2010)
- FLICK, U.** (2006) *An Introduction to Qualitative Research*, London: Sage Publications Ltd.
- FORO INTEGRACION INMIGRANTES** (2007) *Contestación al Cuestionario del "Libro Verde Sobre el Futuro Sistema Europeo Común de Asilo"*, Presentado por la Comisión de las Comunidades Europeas. Available from:
<http://ec.europa.eu/justice_home/news/consulting_public/gp_asylum_system/news_contributions_asylum_system_en.htm#civil_society> (Accessed 6 May 2010)
- FOSTER, M.** (2007) *International Refugee Law and Socio-Economic Rights*, Cambridge, Cambridge University Press
- FREDMAN, S.** (2005) 'Disability Equality: A Challenge to the Existing Anti-Discrimination Paradigm?', 199-218 in **Lawson, A. and Gooding, C., (eds.) (2005) *Disability Rights in Europe: From Theory to Practice*, Oxford and Portland, Hart Publishing.**
- FRENCH, S.** (1994) 'What is Disability?', 3-16 in French, S. (ed.) *On Equal Terms: Working with Disabled People*, Oxford, Butterworth-Heinemann Ltd.
- FRENCH, S.** (1993) 'Disability, Impairment or Something in Between', 135 – 143 in Barnes, C., French, S., Swain, J., and Thomas, C., (eds.) (1993) *Disabling Barriers, Enabling Environments*, London, Sage Publications.
- GEDDES, A.** (2000) 'Denying Access: Asylum Seekers and Welfare Benefits in the UK', 134-147 in Bommes, M. and Geddes, A., (eds.) *Immigration and Welfare: Challenging the Borders of the Welfare State*, London, Routledge.
- GOODWIN-GILL, G.S.** (2001) 'The Individual Refugee, the 1951 Convention and the Treaty of Amsterdam' ... in Guild, E. and Harlow, C., (eds.) *Implementing Amsterdam. Immigration and Asylum Rights in EU Law*, Oxford, Hart Publishing.
- GUILD, E.** (2007) 'Citizens Without a Constitution, Borders Without a State: EU Free Movement of Persons', 25-56 in Baldaccini, A. Guild, E. and Toner, H. (eds) (2007) *Whose Freedom, Security and Justice? EU Immigration and Asylum Law After 1999*, Portland, Hart.
- GUTERRES, A.** (2009) 'Statement by António Guterres, United Nations High Commissioner for Refugees, to the Third Committee of the General Assembly, 64th Session, United Nations Headquarters, New York, Tuesday, 3 November 2009' Available from:

<<http://www.unhcr.org/print/4af2e5249.html>> (Accessed 6 May 2010)

- HARRIS, J.** (2003) "'All Doors Are Closed To Us": A Social Model Analysis of the Experiences of Disabled Refugees and Asylum Seekers in Britain." *Disability and Society* 18(4): 393-408.
- KANTER, A.S. and DADEY, K.** (2000) 'The Right to Asylum for People with Disabilities', *Temple Law Review* 73(4): 1117-1158.
- KANTER, A.S., CHISHAM, R.B. and NUGENT, C.** (2001) 'The Right to Asylum and Need for Legal Representation of People with Mental Disabilities in Immigration Proceedings', *Mental and Physical Disability Law Report*, 25(4): 511-516
- KELLER, A., ROSENFELD, B., TRINH-SHEVRIN, C., MESERVE, C., SACHS, E., LEVISS, J., SINGER, E., SMITH, H., WILKINSON, J., and KIM, G.** (2003) 'Mental Health of Detained Asylum Seekers', *The Lancet*, 362(9397): 1721-1723
- KELLEY, N. and STEVENSON, J.** (2006) *First Do No Harm: Denying Healthcare to People Whose Asylum Claims Have Failed*, London, Refugee Council. Available from: <http://www.refugeecouncil.org.uk/Resources/Refugee%20Council/downloads/researchreports/Healthaccessreport_jun06.pdf> (Accessed 3 February 2010)
- LABAN, C.J., GERNAAT, H.B.P.E., KOMPROE, I.H. and JONG, J.T.V.M.** (2007) 'Prevalence and Predictors of Health Service Use Among Iraqi Asylum Seekers in the Netherlands', *Social Psychiatry and Psychiatric Epidemiology*, 42(10): 837-844.
- LABAN, C.J., KOMPROE, I.H., GERNAAT, H.B.P.E. and JONG, J.T.V.M.** (2008) 'The Impact of a Long Asylum Procedure on Quality of Life, Disability and Physical Health in Iraqi Asylum Seekers in the Netherlands', *Social Psychiatry and Psychiatric Epidemiology*, 43(7): 507-515.
- LOUTAN, L., BOLLINI, P., PAMPALLONA, S., DE HAAN, D.B. and GARIAZZO, F.** (1999) 'Impact of Trauma and Torture on Asylum-Seekers'. *European Journal of Public Health*, 9(2): 93-96.
- MALKKI, L. H.** (1995) *Purity and Exile: Violence, Memory and National Cosmology Among Hutu Refugees in Tanzania*, Chicago & London, The University of Chicago Press.
- McCRUDDEN, C.** (2003) 'The New Concept of Equality', Presentation given at a Conference, *Fight Against Discrimination: The Race and Framework Employment Directives*, Trier, 31 March - 1 April 2003.
- MULVANY, J.** (2000) 'Disability, Impairment or Illness: The relevance of the social model of disability to the study of mental disorder', *Sociology of Health and Illness*, 22(5): 582-601.
- NASCIMBENE, B. and OSCELLO, E.** (2007) *Response to the Green Paper on the Future Common European Asylum System*. Available from: <http://ec.europa.eu/justice_home/news/consulting_public/gp_asylum_system/news_contributions_asylum_system_en.htm#civil_society> (Accessed 6 May 2010)
- NORREDAM, M., MYGIND, A. and KRASNIK, A.** (2005) 'Access to Health Care for Asylum Seekers in the European Union: A Comparative Study of Country Policies' *The European Journal of Public Health*, 16(3): 285-289.

- OHCHR, UN DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS (UN-DESA) and INTER-PARLIAMENTARY UNION (IPU)** (2007) 'From Exclusion to Equality: Realizing the Rights of Persons with Disabilities Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities and its Optional Protocol'. Available from: <<http://www.un.org/disabilities/documents/toolaction/ipuhb.pdf>> (Accessed 30 April 2010)
- OLIVER, M.** (1989) 'Disability and Dependency: A Creation of Industrial Societies?', 6-22, in Barton, L. (ed.) (1989) *Disability and Dependency*, London: The Falmer Press.
- OLIVER, M.** (2004) 'The Social Model in Action: If I Had a Hammer', ... in Barnes, C. and Mercer, G. (eds) *Implementing the Social Model of Disability: Theory and Research*, Leeds, The Disability Press.
- PAREKH, G.** (Date Unknown) 'Is There Refuge for People with Disabilities Within the 1951 Convention Relating to the Status of Refugees' (unpublished), Accessible from: <<http://pi.library.yorku.ca/ojs/index.php/cdd/article/viewFile/23385/21575>> (Accessed January 6, 2010)
- RED CROSS** (2007) *Opinion of the National Red Cross Societies of the Member States of the European Union and the International Federation of Red Cross and Red Crescent Societies*. Available from: <http://ec.europa.eu/justice_home/news/consulting_public/gp_asylum_system/news_contributions_asylum_system_en.htm#civil_society> (Accessed 6 May 2010)
- REFUGEE COUNCIL** (2005) 'A Study of Asylum Seekers with Special Needs', London, Refugee Council. Available from: <<http://www.refugeecouncil.org.uk/OneStopCMS/Core/CrawlerResourceServer.aspx?resource=7BBD16DB-E95A-47DC-8EEB-FC96F879DEA6&mode=link&guid=37a6e4d4ac604fc3bbddb58d7a066b72>> (Accessed 4 April 2010)
- REFUGEE WOMEN'S ASSOCIATION** (2007) *Our Response to Green Paper on the Future Common European Asylum System*. Available from: <http://ec.europa.eu/justice_home/news/consulting_public/gp_asylum_system/news_contributions_asylum_system_en.htm#civil_society> (Accessed 6 May 2010)
- REHMAN, J.** (2003) *International Human Rights Law, First Edition*, Essex: Pearson Education Unlimited.
- ROBERTS, K.** (2006) 'Lost in the System? Disabled Refugees and Asylum Seekers in Britain', *Disability and Society* **15**(6): 943-948 .
- RYAN, D.A., KELLY, F.E. and KELLY, B.D.** (2009) 'Mental Health Among Persons Awaiting an Asylum Outcome in Western Countries: A Literature Review. *International Journal of Mental Health*, **38**(3): 88-111.
- SHAKESPEARE, T. and WATSON, N.** (2001) 'The Social Model of Disability: An Outdated Ideology?', *Exploring Theories and Expanding Methodologies: Research in Social Science and Disability*, **2**: 9-28.
- SILOVE, D.** (2000) 'Trauma and Forced Relocation', *Current Opinion in Psychiatry*, **13**(2): 231-236.

- SILOVE, D., STEEL, Z., and FROMMER, N.** (2004) 'Part I: The Mental Health Impacts of Migration: The Law and its Effects – Failing to Understand: Refugee Determination and the Traumatized Applicant', *International Journal of Law and Psychiatry*, **27**: 511-528.
- SILOVE, D., STEEL, Z., SUSLIJK, I., FROMMER, N., LONERAGAN, C., BROOKS, R., LE TOUZE, D. MANICAVASAGAR, V. CEOLLO, M., SMITH, M., and HARRIS, E.** (2006) 'Torture, Mental Health Status and the Outcomes of Refugee Applications among Recently Arrived Asylum Seekers in Australia', *International Journal of Migration, Health and Social Care*, **2**(1): 4-14.
- SILOVE, D., STEEL, Z., SUSLIJK, I., FROMMER, N., LONERAGAN, C., CHEY, T., BROOKS, R., LE TOUZE, D., CEOLLO, M., and SMITH, M.** (2007) 'The Impact of the Refugee Decision on the Trajectory of PTSD, Anxiety, and Depressive Symptoms Among Asylum Seekers: a Longitudinal Study', *American Journal of Disaster Medicine*, **2**(6), 321-329.
- STRAUSS, A. and CORBIN, J.** (1998) *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory*, London, Sage Publishing Ltd.
- THOMAS, C.** (2007) *Sociologies of Disability and Illness: Contested Ideas in Disability Studies and Medical Sociology*, Basingstoke, Palgrave Macmillan.
- UN AD HOC COMMITTEE ON REFUGEES AND STATELESS PERSONS** (1950) *Ad Hoc Committee on Statelessness and Related Problems, Draft Convention Relating to the Status of Refugees: Decisions of the Working Group Taken on 9 February 1950*, 9 February 1950, E/AC.32/L.32, Available from: <<http://www.unhcr.org/refworld/docid/3ae68c1a4.html>> (Accessed 9 May 2010)
- UN COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS** (1994) *General Comment No.5: Persons with Disabilities*, 9 December 1994, E/1995/22, Available from: <<http://www.unhcr.org/refworld/docid/4538838f0.html>> (Accessed 27 May 2010)
- UN** (2008) *UN Convention on the Rights of Persons with Disabilities (UNCPRD) and Optional Protocol*. Available from: <<http://www.un.org/disabilities/>> (Accessed 27 November 2009)
- UN HIGH COMMISSIONER FOR REFUGEES (UNHCR)** (1987) *Refugee Children*, 12 October 1987, No. 47 (XXXVIII) – 1987. Available from: <http://www.unhcr.org/refworld/docid/3ae68c432c.html> (Accessed 25 May 2010)
- UN HIGH COMMISSIONER FOR REFUGEES (UNHCR)** (1994) *General Conclusion on International Protection*, 7 October 1994, No. 74 (XLV) – 1994. Available from: <<http://www.unhcr.org/refworld/docid/3ae68c6a4.html>> (Accessed 25 May 2010)
- UN HIGH COMMISSIONER FOR REFUGEES (UNHCR)** (1996), *Assisting Disabled Refugees. A Community-Based Approach*, May 1996. Available from: <http://www.unhcr.org/refworld/docid/49997ae41f.html> (Accessed 23 May 2010)
- UN HIGH COMMISSIONER FOR REFUGEES (UNHCR)** (2001) *Global Consultations on International Protection/Third Track: Asylum Processes (Fair and Efficient Asylum Procedures)*, 31 May 2001, EC/GC/01/12 Available from: <<http://www.unhcr.org/refworld/docid/3b36f2fca.html>> (Accessed 28 May 2010)

- UN HIGH COMMISSIONER FOR REFUGEES (UNHCR)** (2002) *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/01. Available from: <<http://www.unhcr.org/refworld/docid/3d36f1c64.html>> (Accessed 25 May 2010]
- UN HIGH COMMISSIONER FOR REFUGEES (UNHCR)** (2004) *UNHCR Annotated Comments on the EC Council Directive 2004/83/EC of 29 April 2004 on Minimum Standards for the Qualification and Status of Third Country Nationals or Stateless Persons as Refugees or as Persons Who Otherwise Need International Protection and the Content of the Protection Granted (OJ L 304/12 of 30.9.2004)*, 28 January 2005. Available from: <<http://www.unhcr.org/refworld/docid/4200d8354.html>> (Accessed 25 May 2010)
- UN HIGH COMMISSIONER FOR REFUGEES (UNHCR)** (2007a) *The Protection of Older Persons and Persons With Disabilities*, 6 June 2007, EC/58/SC/CRP.14. Available from: <<http://www.unhcr.org/refworld/docid/4693775c1c.html>> (Accessed 25 May 2010)
- UN HIGH COMMISSIONER FOR REFUGEES (UNHCR)** (2007b) *Response to the Green Paper for the Future of the Common European Asylum System*. Available from: <http://ec.europa.eu/justice_home/news/consulting_public/gp_asylum_system/news_contributions_asylum_system_en.htm#civil_society> (Accessed 6 May 2010)
- UN HIGH COMMISSIONER FOR REFUGEES (UNHCR)** (2008a) *Manual on a Community Based Approach in UNHCR Operations*, March 2008. Available from: <<http://www.unhcr.org/refworld/docid/47da54722.html>> (Accessed 23 May 2010)
- UN HIGH COMMISSIONER FOR REFUGEES (UNHCR)** (2008b) *General Conclusion on International Protection*, 10 October 2008, No. 108 (LIX) – 2008, Available from: <<http://www.unhcr.org/refworld/docid/490885f1789.html>> (Accessed 25 May 2010)
- UN HIGH COMMISSIONER FOR REFUGEES (UNHCR)** (2008c) *UNHCR Manual on a Community Based Approach in UNHCR Operations*. Available from: <<http://www.unhcr.org/refworld/docid/47da54722.html>> (Accessed 2 June 2010)
- UN HIGH COMMISSIONER FOR REFUGEES (UNHCR)** (2009a) *Conclusion on Protracted Refugee Situations*, 22 December 2009, No. 109 (LX) – 2009, available at: <http://www.unhcr.org/refworld/docid/4b30afd92.html> (Accessed 25 May 2010)
- UN HIGH COMMISSIONER FOR REFUGEES (UNHCR)** (2009b) *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22 December 2009, HCR/GIP/09/08. Available from: <<http://www.unhcr.org/refworld/docid/4b2f4f6d2.html>> (Accessed 25 May 2010)
- VERNON, A.** (1996) 'A Stranger in Many Camps: The Experience of Disabled Black and Ethnic Minority Women', 47-68 in Morris, J. *Encounters with Feminism and Disability*, London, Womens Press.
- WARD, K., AMAS, N. and LAGNADO, J.** (2008) 'Supporting Disabled Refugees and Asylum Seekers: Opportunities for New Approaches', London, Metropolitan Support Trust.

WHO (2005) *WHO Resource Book on Mental Health, Human Rights and Legislation*, Geneva, WHO. Available from: <http://www.who.int/mental_health/policy/legislation/policy/en/> (Accessed 20 May 2010)

WILLIAMS, S.J. (1999) 'Is Anybody There? Critical Realism, Chronic Illness and the Disability Debate', *Sociology of Health and Illness*, **21**(6): 797-819.

ZETTER, R. (2007) 'More Labels, Fewer Refugees: Remaking the Refugee Label in an Era of Globalisation', *Journal of Refugee Studies*, **20**(2): 172-192.

ZOLA, I.K. (1989) 'Toward the Necessary Universalizing of a Disability Policy', *The Milbank Quarterly*, 67, Supplement 2 (Part 2), *Disability Policy: Restoring Socioeconomic Independence*, 401-428.

ZOLBERG, A. R., Suhrke, A. and AGUAYO, S. (1989) *Escape from Violence*, New York, Oxford University Press.

Cases

BOG (Re) [2000] No . VAO-03441, CRDD No. 121, 16 July 2001.

I-P-J (Re) No.A99-01121 [2000] CRDD No. 141, 11 September 2000.

LXC (Re), No. TAO-05472 [2001] CRRD No. 96, 30 May 2001.

Tchoukhrova v. Gonzales, [2005] 404 F.3d 1181, US C.A. for the 9th Circuit, 21 April 2005.

Primary sources

Interviews , Communications and Speeches

AL-TARAWNEH, M. (2010) Founder Chairperson of the UN CRPD Committee, Vice-President (2010) of the UN CRPD Committee, Communication with Author, 06/05/2010.

AMARAL, P. (2010) Policy and Advocacy Officer, Jesuit Refugee Services, Interview with Author, Brussels, 21/04/2010.

ARSENJEVA, J. (2010) **Policy and European Parliamentary Officer**, European Disability Forum, Interview with Author, Brussels, 19/04/2010.

ARVIDSSON, L. (2010) Office for the High Commissioner of Human Rights, Interview with Author, Brussels, 19/04/2010.

COMMISSION OFFICIAL A. (2010) European Commission, Telephone Interview with Author on the recast proposal for the Qualification Directive, 07/05/2010.

COMMISSION OFFICIAL B. (2010) European Commission, Telephone Interview with Author on the recast proposal for the Asylum Procedures Directive, 29/04/2010.

- COMMISSION OFFICIAL C.**, (2010) Interview with Author on the recast proposal of the Reception Conditions Directive, Brussels, 21/04/2010.
- GEBABRD, J.** (2010) Centre for Equal Opportunities and Opposition to Racism, Racism and Xenophobia Network (RAXEN), Interview with Author, Brussels, 19/04/2010.
- HANNAN, M.** (2010) Disabled Peoples' International – Europe, Spokesperson for Asylum Seekers with Disabilities, E-mail Communication with Author, 10/04/2010 and 16/04/2010.
- JARAB, J.** (2010) Office for the High Commissioner of Human Rights, Regional Representative, Interview with Author, Brussels, 19/04/2010.
- KESSLER, S.** (2010) Senior Policy and Advocacy Officer, Jesuit Refugee Services, Interview with Author, Brussels, 21/04/2010.
- UNHCR Official** (2010) Junior Protection Officer, UNHCR, Telephone Interview, 12/04/2010.
- NOVAK, F.** (2010) UNHCR Europe – Policy and Legal Support Unit, Policy Officer, Interview with Author, 20/04/2010.
- OBI, N.** (2010) Head of UNHCR's Community Development, Gender Equality and Children Section of the Division of International Protection Services, Interview with Author, Geneva, 17/03/2010.
- PITOTTI, M.** (2010) Attaché of Refugee and Migration Affairs, US Mission to the United Nations, Geneva and Special Rapporteur on the Executive Committee Conclusion on Persons of Concern with Disabilities, Interview with Author, Geneva, 17/03/2010 and Telephone Conversation with Author, 09/04/2010.
- POLLET, K.** (2010) Senior Advocacy Officer, European Council on Refugees and Exiles (ECRE) Interview with Author, Brussels, 21/04/2010.
- TAX, B.** (2010) UNHCR Europe, Policy and Legal Support Unit, Senior Policy Officer, Interview with Author, Brussels, 20/04/2010.

Texts for Discourse Analysis

(1) Syntagmatic Discourse Analysis

EUROPEAN COUNCIL (2004) 'Council Directive 2004/83/EC of 29 April 2004 on Minimum Standards for the Qualification and Status of Third Country Nationals or Stateless Persons as Refugees or as Persons Who Otherwise Need International Protection and the Content of the Protection Granted', *Official Journal* L 304, 30/09/2004: 0012 – 0023. Available from: <http://ec.europa.eu/justice_home/doc_centre/asylum/doc_asylum_intro_en.htm> (Accessed 27 May 2010)

EUROPEAN COMMISSION (2009b) *Proposal for a Directive of the European Parliament and of the Council on minimum standards on procedures in Member States for granting and withdrawing international protection (Recast)*, COM(2009) 554 final. Available from: <http://ec.europa.eu/justice_home/doc_centre/asylum/doc_asylum_intro_en.htm> (Accessed

27 May 2010)

EUROPEAN COUNCIL (2005) 'Council Directive 2005/85/EC of 1 December 2005 on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status', *Official Journal* L 326, 13/12/2005: 13, Available from: <http://ec.europa.eu/justice_home/doc_centre/asylum/doc_asylum_intro_en.htm> (Accessed 27 May 2010)

EUROPEAN COMMISSION (2009c) *Proposal for a Directive of the European Parliament and of the Council on minimum standards for the qualification and status of third country nationals or stateless persons as beneficiaries of international protection and the content of the protection granted (Recast)*, COM(2009) 551 final. Available from: <http://ec.europa.eu/justice_home/doc_centre/asylum/doc_asylum_intro_en.htm> (Accessed 27 May 2010)

EUROPEAN COUNCIL (2003) 'Council Directive 2003/9/EC of 27 January 2003 Laying Down Minimum Standards for the Reception of Asylum Seekers', *Official Journal* L 031, 06/02/2003: 0018 – 0025. Available from: <http://ec.europa.eu/justice_home/doc_centre/asylum/doc_asylum_intro_en.htm> (Accessed 27 May 2010)

EUROPEAN COMMISSION (2008) *Proposal for a Directive of the European Parliament and of the Council laying down minimum standards for the reception of asylum seekers (Recast)*, COM(2008) 815 final. Available from: <http://ec.europa.eu/justice_home/doc_centre/asylum/doc_asylum_intro_en.htm> (Accessed 27 May 2010)

(2) *Paradigmatic Discourse Analysis*

The Green Paper Consultations, Commentaries on the recast Directives by UNHCR and ECRE, and a Commission Staff Working Document shared by one of the Officials have formed the basis for the paradigmatic Discourse Analysis. Not all documents contained references to disability. Those that did are cited explicitly in the text and also appear in the secondary sources section of this bibliography. Below is a comprehensive overview of the data set used in this analysis.

Green Paper Consultations

The full list of the Green Paper Consultations is available from the following link: <http://ec.europa.eu/justice_home/news/consulting_public/gp_asylum_system/news_contributions_asylum_system_en.htm#civil_society> (Accessed 6 May 2010)

The two data sets reviewed are the 'Submissions to the Green Paper Consultation by Member States: National Governments' and the 'Submissions to the Green Paper Consultation by Civil Society, Non-Governmental Organisations, Others.'

Commentaries on the Directives

EUROPEAN COUNCIL ON REFUGEES AND EXILES (ECRE) (2003) *Comments from the European Council on Refugees and Exiles on the Amended Proposal for a Council Directive*

on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status (2000/0238 (CNS)), 5 March 2003. Available from:
<<http://www.unhcr.org/refworld/docid/3e6df22f4.html>> (Accessed 2 June 2010)

EUROPEAN COUNCIL ON REFUGEES AND EXILES (ECRE) (2006) *ECRE Information Note on the Council Directive 2005/85/EC of 1 December 2005 on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status*, October 2006, IN1/10/2006/EXT/JJ, Available from:
<<http://www.unhcr.org/refworld/docid/464317ab2.html>> (Accessed 2 June 2010)

EUROPEAN COUNCIL ON REFUGEES AND EXILES (ECRE) (2007) *Submission from the European Council on Refugees and Exiles in response to the Commission's Green Paper on the Future Common European Asylum System (COM (2007) 301)*, AD5/9/2007/Ext/RW. Available from: <http://www.ecre.org/resources/Policy_papers/952> (Accessed 26 May 2010)

EUROPEAN COUNCIL ON REFUGEES AND EXILES (ECRE) (2009) *Comments from the European Council on Refugees and Exiles on the European Commission Proposal to Recast the Reception Conditions Directive*. Available from:
<<http://www.unhcr.org/refworld/docid/49f9a8550.html>> (Accessed 24 May 2010)

EUROPEAN COUNCIL ON REFUGEES AND EXILES (ECRE) (2010) *Comments from the European Council on Refugees and Exiles on the European Commission Proposal to recast the Qualification Directive*, Brussels, ECRE. Available from:
<http://www.ecre.org/resources/Policy_papers/1534> (Accessed 25 May 2010)

UN HIGH COMMISSIONER FOR REFUGEES (UNHCR) (2003) *UNHCR Annotated Comments on Council Directive 2003/9/EC of 27 January 2003 Laying Down Minimum Standards for the Reception of Asylum Seekers*, July 2003. Available from:
<http://www.unhcr.org/refworld/docid/3f3770104.html> (Accessed 2 June 2010)

UN HIGH COMMISSIONER FOR REFUGEES (UNHCR) (2004) *UNHCR Annotated Comments on the EC Council Directive 2004/83/EC of 29 April 2004 on Minimum Standards for the Qualification and Status of Third Country Nationals or Stateless Persons as Refugees or as Persons Who Otherwise Need International Protection and the Content of the Protection Granted (OJ L 304/12 of 30.9.2004)*, 28 January 2005. Available from:
<<http://www.unhcr.org/refworld/docid/4200d8354.html>> (Accessed 25 May 2010)

UN HIGH COMMISSIONER FOR REFUGEES (UNHCR) (2005) *UNHCR Provisional Comments on the Proposal for a Council Directive on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status (Council Document 14203/04, Asile 64, of 9 November 2004)*, 10 February 2005, available at:
<http://www.unhcr.org/refworld/docid/42492b302.html> [accessed 2 June 2010]

UN HIGH COMMISSIONER FOR REFUGEES (UNHCR) (2007b) *Response to the Green Paper for the Future of the Common European Asylum System*. Available from:
<http://ec.europa.eu/justice_home/news/consulting_public/gp_asylum_system/news_contributions_asylum_system_en.htm#civil_society> (Accessed 6 May 2010)

UN HIGH COMMISSIONER FOR REFUGEES (UNHCR) (2007c) *Asylum in the European Union: A Study of the Implementation of the Qualification Directive*, Geneva, UNHCR. Available from: <<http://www.unhcr.org/refworld/docid/473050632.html>> (Accessed 27 May

2010)

UN HIGH COMMISSIONER FOR REFUGEES (UNHCR) (2009c) *UNHCR Comments on the European Commission's Proposal for a recast of the Directive laying down minimum standards for the reception of asylum-seekers (COM (2008)815 final of 3 December 2008)*, 13 March 2009. Available from: <<http://www.unhcr.org/refworld/docid/49ba8a192.html>> (Accessed 25 May 2010)

EUROPEAN COMMISSION (2009a) *Staff Working Document Accompanying the Proposal for a Directive of the European Parliament and of the Council on Minimum Standards on procedures in Member States for granting and withdrawing international protection – Impact Assessment*, SEC(2009) 1376, 21.10.2009. Available from: <http://www.europa-nu.nl/9353000/1/j4nvgs5kjg27kof_j9vvh6nf08temv0/vi9o9ogr8yxc/f=/.pdf> (Accessed 15 May 2010)