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**“Why do asylum seekers fail?
Views from the margins of British Society”
(The Ethiopian experience)**

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Introduction

Since the middle of the 1980s more than 5 million people have submitted requests for refugee status in Western Europe, North America, Japan and Australia¹. Confronted by the growing political, economic and social unrests at home, so many people from different countries have crossed the border their country in search of protection from others. The UK is amongst the many European countries to receive and host asylum seekers and their families. According to the Home Office between 1998 and 2007 only more than half a million asylum seekers have entered the country and a quarter of them have been granted the governments protection². However, significant numbers of asylum seekers are still either are waiting for decision or have failed to convince the government and placed as an illegal alien. There is exact figure that shows the number of failed asylum seekers as most figures given are estimates. In 2006 for instance according to the House of Commons Public Accounts Committee estimate there were between 155,000 and 283,000 failed asylum seekers in the country demanding 10-18 years to clear the backlog.³ The Home Office on the other hand acknowledging the existence of ‘unresolved’ asylum cases in the system that had been made prior to the 5th March 2007 New Model Asylum (NAM) policy introduction, but retract itself from giving the exact figure. The question is why so many asylum seekers failed to convince the authority and what factors have contributed to the failure of all these cases?

While government sources identify the failure of asylum applicants in producing adequate explanation and supporting documents as the main reason, asylum applicants and refugee community organizations on the other hand point out the inadequacy of the asylum seeking and determination process. At the same time while the official arguments is widely circulated for public understanding, little attention was given to asylum applicants and refugee community organizations views. This paper is all about these people and groups. It identifies asylum seekers arguments and investigates refugee community organizations understandings. In discussing the experiences of failed asylum seekers and community organizations attention was given to experiences until 2007 because of two reasons: first most failed asylum seekers I have spoken to are those who claimed asylum before 2007 and second with the introduction the New Asylum Model (NAM) there is a significant improvement in handling new asylum cases although there are instances of irregularities after the introduction of the new policy.

The aim is therefore to bring into attention failed asylum seeker’s and refugee community organization’s point of view and give another dimension and understanding to the underlying problem of asylum seeking process. It is certain that asylum application process differs based on the applicant’s background and country of origin state of affairs. Basically it is not easy to get comparable reasons why most

asylum seekers fail in their request for protection. However, there are factors that are common to all and can be seen as common. Thus the paper focuses on the experience of Ethiopian failed asylum seekers and the Ethiopian refugee community organizations.

This paper is part of the ESRC funded project entitled '*Refugees and the Law: An Ethnography of the British Asylum System*' where I was given a position for the last two and half years. Throughout the project's period I was actively engaged in understanding the Ethiopian refugee community organizations activities. I was able to speak to some 26 Ethiopian community organizations here in London some more than once; able to conduct a 12+ weeks each participant observations in two community organizations and attended the many gatherings they had and exchanged views with many of the community organizations past and present leaders. I have also traced 18 failed asylum seekers to get their views on their asylum application process and their daily routines. My informal discussion with these failed asylum seekers, except one and the formal discussions I had with refugee community organization is at the basis of this paper.

Some consideration about the asylum seeking process in the UK

It was since the early 90s that the number of asylum seekers coming to the UK started to show significant increase. However, despite the sharp rise and fall it was in the last 10 years that new arrivals exceeded the expected figure and that has been a testing time for parties involved in the process. There was a pressure from different directions: On the one hand political instabilities caused by conflicts, social unrests and economic problems of less developed countries continued to force people to leave their country in search of international protection and on the other hand the host society overwhelmed by the new comers were reacting differently that forced the government to introduce and implement aggressive towards asylum applicants legislations. This in its turn has made difficult for many of the asylum seekers to go through proper asylum seeking procedures.

The Home Office statistics shows that between 1998 and 2007 some around half a million asylum applicants arrived in the UK (see Table 1). Out of them about 56 070 (10 per cent) were granted refuge status and some 76360 (13 per cent) were given Exceptional Leave to Remain (ELR). Few among the refused asylum seekers have been successful in their appeal process while the majority of the applicants failed to get the governments protection. There is no exact figure on the number of pre-March 2007 failed asylum seekers. The House of Commons public account committee estimates between 155,000 and 283,000 while the Home Office's estimate between 400,000 and 450,000 'unresolved' cases planned to be cleared by 2011 is yet to be considered as many of them are duplicate or errors⁴.

The issue here is not about the figures, it rather is about the factors that contributed to failure of such a huge asylum cases. The official response to the situation is the inability of asylum applicants in producing adequate and well founded reasons to their claims. However practices of the past and research findings in part have indicated failure of the system in providing the necessary support to the applicants in the form of information, legal support and in some cases trained case workers are among the factors. Notwithstanding these facts, according to individual applicants and

community organization’s understandings, there are also other factors that contributed to the negative outcome of most asylum claims such as pre-asylum application and post asylum application circumstances. Thus, this paper first tries to recapture key requirements in asylum seeking procedures. Then it touches upon some research findings in the process, which will be followed by individual asylum applicants and community organizations experiences and concludes by trying to answer the question ‘why asylum seekers fail’?

Table 1: Asylum applicants in the UK (1998 – 2007)⁵

Year	Asylum applicants	Recognized granted asylum status		Not recognized but granted ELR		Refused
		Figure	%	Figure	%	
1998	46015	5345	11.6	3910	8.4	22315
1999	71160	7815	10.9	2465	3.4	11025
2000	80315	10375	12.9	11495	14.3	75680
2001	71365	11180	15.6	19845	27.8	87990
2002	84130	8270	9.8	20135	23.9	55130
2003	49405	3865	7.8	7210	14.5	53865
2004	33960	1565	4.6	3395	11.7	40465
2005	25710	1940	7.5	2800	10.8	22655
2006	23610	2170	9.1	2305	9.7	16460
2007	23430	3545	15.1	2200	9.3	16030

What are the key requirements in seeking asylum?

Asylum applicants in the UK are required to justify their claim to one of the requirements of the post World War II international agreement. The 1951 UN convention and its protocol of the 1967 defines refugee as someone who:

‘owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it’.⁶

According to the convention, asylum applicants must be able to proof that they have a well founded fear of persecution because of their race, religion, nationality, belong to certain social group or adhere to certain political opinion. They must also proof that they could not get protection in their own country and the risk of persecution is high if they are sent back. In such a situation an asylum applicant can get the protection of the UK government under the 1951 convention. Asylum applicants can also get the UK government’s protection on Humanitarian ground provided they proof sending them back to their home country breaches the 1950 European Convention on Human Rights (ECHR). These two conventions were strengthened by European Union’s common asylum qualification directive (The EU Asylum Qualification Directive) adopted in 2004 to establish a minimum standard for qualification of refugee status. As a basic requirement of the documents, asylum applicants must clearly state their

reasons and support their claims with sufficient evidences which certainly depend on individual applicant's background, knowledge and ability to present their cases.

One point of concern here is the difference in interpretation of the convention's points as it is guided by national legislations and policies. In most countries, though international and regional agreements are supposed to be ratified and reinforced, at times agreements will be placed under server legal interpretations and application procedures. Thus asylum applicants are expected to abide not only to the 1951 convention but also to national legislations and policy driven procedures.

In the UK the Home Office at the initial stage and the courts at the appeal stage are responsible for investigating and deciding on asylum claims under the above mentioned conventions. In practical terms one can observe slight practical differences between the two as the Home Office's decision making process is based on Asylum Policy Instructions and summary of the current UK law with special reference to key house of Lord's decisions while the decisions appealed to courts' undergo crucial legal interpretations (Good, 2007:51). Perhaps it is because of these interpretation differences that some Home Office's initial decisions on asylum applications were wrong or won the appeal procedure at court. The most obvious explanation is the political; the charge is made that, far from taking 'a creative view of the grounds for persecution.... In the light of modern developments and approaches', the UK takes a 'restrictive approach', which tends to treat the convention as 'a checklist for the exclusion' (justice et. al.1997:21).

What is known so far? Research findings

Asylum determination and decision making process is a complex matter as the standards set can not be applied in a similar way. It rather follows individual applicant's account of events supported by mechanisms put in place to guide the asylum application processes. However, at times the process falls short of its expectation. Literatures and research reports such as Good (2007), Smith (2004), Robinson (2002), Asylum Aid (2007, 2008), BID & Asylum Aid (2005), Refugee Council (2007) confirm this reality, which was also substantiated by three research reports of recent time conducted by Amnesty International (2004), research by the Center for Social justice (2008) and the Independent Asylum Commission investigation carried out in between 2006 - 2008.

a) Amnesty International findings

In 2003 amnesty International UK concerned with poor quality initial decision making process of the Home Office, initiated a research project to investigate the factors behind such problems. Throughout the research period Amnesty International received 175 asylum cases from solicitors containing Home Office reasons for refusal letters. In a report entitled '*Get it Right: how Home Office decision making fails refugees (2004)*', that came out of this research project, Amnesty international UK noted that asylum is one of the most contentious issue in the UK political discourse. According to the report the focus of the successive governments in the country was to try to reduce the number of new arrivals through the introduction of legislations and regulations. For those who have entered the country the decision making process was not also immune of deficiencies. Poor quality interviewing procedures and initial

decision making process due to lack of well trained case workers was among the shortcomings observed. According to the report in the year 2002 some 22 per cent rejected cases won their appeal against the refusal of asylum. This means that in nearly 14,000 cases the initial decision on asylum claim was wrong. There was a slight improvement during the following year where one in five refusals was overturned on appeal. The report also shows that the Home Office gets the decision wrong on many asylum claims from a wider variety of countries. Among the nationalities that have been caught in this decision making problem are 585 Somalis (39 per cent); 65 Sudanese (36 per cent); 150 Eritreans (35 per cent); 95 Ethiopians (35 per cent); 465 Turkish (31 per cent); 310 Iranians (27 per cent); 45 Colombians (28 per cent) and 35 Russians (26 per cent).

Other problems identified were problem of accessing legal services and getting representation, problems in referring to accurate and up-to-date information on applicant's country of origin and unreasoned and unjustifiable assertions about individual applicant's credibility. In short according to the report the quality of initial decision making in the UK is inadequate and falls short because of:

- accurate information relating to the human rights situation in applicants countries of origin;
- objective consideration of issues relating to the individual credibility of asylum applicants;
- appropriate consideration of allegations torture and medical evidences.

b) *The Independent Asylum Commission*

The Independent Asylum Commission was a team of commissioners set up by a wide body of citizens drawn for all parts of the country to investigate the UK asylum system. The Commission which started its work in October 2006 was able to collect evidences from a wider range of witnesses across the UK namely Asylum seekers/refugees, concerned organizations and individuals. In its report '*Fit for purpose yet?* (March 2008)',⁷ the commission found that though the UK asylum system is improved and is improving, it is not yet fit for purpose. The assessment found that the treatment of asylum seekers falls seriously below the standards to be expected of a human and civilized society; it denies sanctuary to some who genuinely need it and ought to be entitled to it; ... According to the commission's observations key factors influencing asylum applications are:

- the initial application
- contents of the substantive interview
- country of origin information and
- expert witness evidence

In its findings the commission highlighted among others the following conclusions;

- Though there is an effort by UKBA to deal with asylum claims more effectively, there persists a 'culture of disbelief' among decision makers. Along with lack of access to legal advises for applicants this is leading to perverse and unjust decision.

- The adversarial nature of the asylum process stacks the odds against asylum seekers, especially those who are emotionally vulnerable and lack the power of communication.

The commission also expressed its concern on lack of preparation by some case workers before they interview applicants including an insufficient knowledge of country information; lack of familiarity by case workers on key issues and facts of the case or those related cases with issues around the accuracy of the transcription in interview. With regard to the quality of initial decision making process, the commission pointed out the following three areas of concern: credibility and plausibility issue, inconsistency in decision making and lack of access to initial legal advices.

c) *The Center for Social Justice*

The centre which was initiated and chaired by the Hon. Iain Duncan Smith, MP to look at asylum and destitution has been working with different groups and individuals including asylum seekers and those who work on their behalf. The working group in addition to the consultation and advices they have had from professionals and practitioners, they were able to learn from the experiences of Canada, Australia and other European countries. In the report entitled '*Asylum Matters: Restoring Trust in the UK Asylum System*', (December 2008), the centre pointed out the systematic failure that the government has encountered due to inadequate asylum case handling. According to the report restrictive policy that hinders asylum applicants entering the country, insufficient support and improper asylum application hearings, introduction of legislations that restrict access to good legal services together with time restrictions placed on solicitors to respond to initial decisions of the Home Office are among the problems that let so many failed asylum seekers to the present circumstances. As a result of this, the report notes that, the public and the asylum applicants alike have lost confidence in the system that is open to abuse and has very little understanding to the issue. Among the many factors hindering a fair asylum hearing according to the report are:

- Culture of disbelief at the Home Office which is pervading so much the policy and that has made increasingly difficult for the asylum seekers to get a fair and proper hearing,
- Sever cut in the legal funding which forced many asylum applicants to represent themselves at different stages of the asylum application procedures,
- poor quality of interpretations which leads to a subjective approach to the applicants credibility,
- out-of-date or inaccurate country of origin information,
- Poorly justified dismissal of evidence given by expert witness in support of asylum seekers and
- the pressure that politically motivated targets have been placed on decision makers.

As a result of this, according to the report in 2004 only 3 per cent of the asylum applications were granted refugee status and in 2007, 89 per cent of the initial decisions were appealed and 23 per cent of them were overturned.

In summarizing the findings of the discussed research projects one can get the following main factors that contributed to the failure of many asylum case:

- the asylum interviewing process,
- the country of origin information issue,
- credibility issue,
- legal service issue and
- Issues related to decision making process

The asylum interviewing process: Upon arrival asylum applicants will be interviewed about their asylum claim. There are two types of interviews: the screening interview to map out the route and the substantive interview which focuses on the cause of the asylum application. In the past it was this interview combined with the SEF application form that substantially dictated the out come of the initial decision and the subsequent appeal procedures. The interviews were conducted at the Home Office where asylum applicants were asked about their reasons for asylum claim. It was at this stage that many problems occur. According to the research projects findings, there was a concern on the interview procedure because of the lack of preparation by the case workers before they interview the applicants including insufficient knowledge of country information and lack of familiarity with the key issues and facts of the case and related to that matters. There were also issues around the accuracy of the transcription of the interviews. The other worry was the misunderstanding and misinterpretation arising because most interviews were conducted through interpreters. Applicants may have suffered anxiety about revealing their background in front of a third party that can be or not from their own country but not the appropriate gender for the content of the specific asylum claim.

The country of origin information issue: The Home office uses compiled information by Country of Origin Information Service and is consulted by an independent Advisory Panel on Country of Origin. However, according to the reports, while detailed and up-to-date information on the country of origin is essential in considering asylum applications, it seems that selective information were used without analysis of the contexts often giving positive picture of the human right situation of the asylum applicant's country. Smith Ellie of the Medical foundation (2004), for instance, identified numerous inconsistencies in using country of origin information and reasons given in refusing asylum applications. The use of out of date or often summarized version of the circumstances of the country of origin has long casted the doubt on the accuracy of the use and benefit of the country of origin information in deciding on asylum requests.

Credibility Issue: The lack of credibility, according to the Home Office is, explained when an applicant is not consistent enough in his/her account of events, when there is a contradiction between what is known and what the applicant says and when there is a doubt about the applicants story telling. But the issue is whether an attempt is made to understand what had tempted applicants if any to conceal or be inconsistent in their story telling. In this regard the reports identified the lack of understanding of circumstances and the existence of a 'culture of disbelief', a 'culture of refusal' or as others call it 'culture of denial' or being unjust among the decision makers that has made difficult for many asylum seekers to get a fair hearing.

Legal service issue: Despite subsequent actions to reform the legal representation such as the establishment of the Office of Immigration service Commission (OISC) and Legal Service Commission (LSC), lack of adequate legal service has been mentioned as an issue. According to the reports, shortage of legal firms willing to take on cases combined with the reduction of funding and time available for each asylum applicant⁸ and numerous instances of unprofessional services are part of the problems asylum applicants confronting. The reports also emphasized the need of legal advice at early stage of an asylum application, which not only enhances the quality of the initial decision but also avoids wasting public funds on appeals against ill-founded refusals.

Issues related to decision making process: The quality of decision making in particular at initial stage is subject to the above mentioned factors and the understanding of the official who is in charge of the case. In some instances as the reports indicate, failure in proper consideration of the expert reports or medical foundation evidences has also been noted as contributing factors in decision making process.

If one places the findings discussed and factors highlighted so far in stages the following three stages can be drawn: the *asylum application stage*, the *evaluation stage* and the *decision making stage*. While asylum interviewing and relevant to that process such as knowledge of country information and the use of trained caseworkers comes under the asylum application stage, others such as the credibility issue, culture of disbelief within the Home Office and in appropriate consideration of allegations of torture and medical evidences fall within the evaluation stage. The last stage which is the reflection of the other two is the decision making stage, which is based on the level of legal support an asylum applicant gets and subsequent understanding of the circumstances by the decision makers. The research also highlighted additional factors such as poorly justified dismissal of evidence given by expert witness and the pressure that politically motivated targets that has been placed on decision makers (*Centre for Social Justice*) and inconsistency in decision making (*Independent Asylum Commission*) as part of the problems which resulted in poor quality of initial decision making process. However, these all are factors reflecting part of the asylum seeking process, namely the process after an asylum applicant entered the UK. It is certain the way an asylum applicant is received and supported by in large contributes to the outcome, which is part of the process. Applicant's action in the application stage and other subsequent stages can be dominated by factors in the *pre-asylum application stage* he/she has been through.

These are individual asylum seekers background, his/her cultural upbringing, the extent of preparation the applicant had before leaving his/her country of origin, the applicant's knowledge about the host country's system and asylum seeking procedures, the journey and route, the difficulties if any and the trauma the applicant has been through, the formal and informal network he has developed before, during the journey and at the time of arrival, the type of people he/she has met, the time the applicant had before submitting his asylum claim so on so forth. To this can be added issues related to the application stage such as the preparation the applicant has made for the interview and the frame of mind of the asylum applicants and that of Home Office case worker, the interpreter's quality and ethnic back ground, the legal representative's dedication and the applicant's personal efforts. At the decision

making stage also factors like the impartiality of the decision making body among others was a factor to be addressed. In the eyes of the asylum applicants and the Refugee community organizations experience these factors are significant in deciding the fate of an asylum applicant. The choice has no connection to what so ever reason except the research project I was involved in was partly based on the experiences of the Ethiopian asylum seekers.

Some facts on the Ethiopian community members

It is difficult to estimate the number of Ethiopians residing in the UK because of two main reasons: first estimates like Papadopoulus et al (2004) where they suggest that there are 30,000 Ethiopians while Koser (2007a) puts the number of Eritreans at 25,000 are based upon figures provided by community organizations, where the exactness of the figure can be questioned. Second although Eritrea became independent in 1993 the Home Office did not differentiate between Ethiopians and Eritrean's asylum applicants until 1997 and official figures recorded all arrivals as 'Ethiopian' (regardless of their asylum claim or how they saw themselves). In all likelihood the total number of Ethiopians and Eritreans is approximately 40,000, with a larger number who self-define as deriving from Ethiopia (Campbell & Afework, 2008).

Ethiopians started to arrive in the UK in early 80's in the aftermath of the 1974 revolution which saw social unrest, economic disorder, draught and famine but their number was not significant. The situation changed in 1991 when the Ethiopian People's Revolutionary Democratic Force (EPRDF), a consortium of ethnic-oriented political group, overthrew the military administration and took control of the country. Since then a growing number of Ethiopians have sought sanctuary outside their country, some of them reaching the UK (Solomon 2007).

For instance between 1998 and 2007 more than 4000 Ethiopian asylum applicants have arrived in the UK and out them 325, which is 9.6 per cent, were recognized as refugee while 840 were given ELR, which is 16.3 per cent of the total arrivals of that period. In total around 26 per cent of the total arrival were given protection in one or another form while the rest about 74 per cent of the applicants were refused and left as failed asylum seekers⁹. The question is how do these failed asylum seekers perceive their failure?

Reaching failed asylum seekers

In trying to answer the question I traced and interviewed 16 failed asylum seekers here in London and outside between May and August 2008 and incorporated with 2 other failed asylum seekers interviews conducted in May and June 2007¹⁰. In trying to talk to this group of people the first thing that comes to your mind is whether it is possible to locate them as they have no fixed addresses or will not let others know where it is. You hear that some still feel anger of themselves while others denounce the system and individuals who have been in charge of their cases: the Home Office officers, solicitors and judges, interpreters and even fellow Ethiopian and Eritrean who were or were not supportive in providing sufficient information. So it was a challenge and has taken some of my time first to establish the contact and reach an agreement on days and meeting places and then to get something form their mind.

However, I found a way out by approaching community organizations as a bridge. Besides, in two or three occasions the failed asylum seekers themselves networked me with their friends (snowball method).

The discussions were carried out in different but suitable for them places: tea rooms, local pubs, on the road and in a laundry, at SOAS staff room, restaurants, through telephone and on two occasions in their houses. No recording was done, except the two from 2007, as that was one of the conditions to talk to me. With most of them I did discuss on weekdays during normal working hours and on one occasion it was on Sunday. On average discussions took between 1 and 1 ½ hours.

Life in a state of uncertainty is not easy. No matter how strong you are, being uncertain of your future by itself is a burden. That is what I have understood from the informants I discussed with. Though they are willing to share their experience, some of them were not free and comfortable. There are of course differences you observe: some were straightforward in their ideas and reasons, they try to figure out their past and also their future and maintain contacts with others. To the extent some even try to help others in a form of volunteering in community organizations. Others stay subservient and think of their problems although there is very little that they can do. It was under such circumstances that I got the chance to learn part of their experiences.

I did also approach some 34 Ethiopian refugee community organizations in London out of which I managed to talk to 26 of them on matters that include failed asylum seekers. For the purpose of broader understanding I have used some of their ideas when discussing factors contributing to the negative outcome of an asylum application.

Why do asylum seekers fail? Failed asylum applicants and refugee community organizations accounts

The reasons why asylum seekers fail in their claims can be seen from different perspectives. In the previous discussion I have tried to summarize some of the factors that have contributed to the negative outcome of the many asylum applications, which are in most cases post asylum application factors. However, in the eyes of failed asylum seekers and refugee community organization these are not the only ones as there are other factors that have contributed to the outcome of the post application circumstances. They can be categorized in to two stages: *pre-asylum application* and *post asylum application factors*.

Pre-asylum application factors: The pre-asylum application factors consists applicant's cultural and educational background, preparation, ability of self-presentation and consistency in following the information he/she has come across. What is known from literatures and personal experiences is that most asylum seekers leave their country without sufficient preparation to the challenges ahead. They do not think about what to take with them or they do pay less attention to the difficulties on their way; they do not think much about their destinations; arrangements on arrival are not organized or they do not think how to proceed with the questions they will be confronted. One thing they think is saving their life at that particular time.

Added to this is the difficulty they face on their journeys. The routes are not smooth, so many stop-over's and boarder crossings, rough and dangerous crossings and

sometimes life threatening experiences such as the journey through the Sahara desert or the boat crossing to Yemen where so many people lost their life. Sometimes it takes more time than planned which mounts pressure on the future asylum applicant and this might lead to seek support from the 'unknowns' or use 'middlemen' with unexpected consequences: landing to unknown area, being violently abused by the smugglers, losing personal properties, documents and money or he/she might also get sick etc. Even reaching a neighboring country for some is not being free of the threat they have run from. Detention on arrival and physical and psychological abuses are common. Their legal status is in question. There are also logistical and economic problems combined with the socio-cultural differences that can affect asylum applicant's attitude. It is after all such ups and downs that they reach the western countries. And yet if one arrives after all these difficulties, it is not easy for him/her in short span of time to carry on with his/her asylum seeking procedure. To this can also be added cultural difference, language barrier and level of exposure to the western way of life that directly or indirectly affect asylum applicant's claim. These are factors that can shape or influence individual applicant's performances during and in the post application procedures. In the eyes of the asylum applicants and refugee community organizations these factors have been left with no consideration throughout the asylum determination processes. They are the applicant's background, level of preparation, self presentation ability and Attentiveness. Let's see each of the factors with our example – Ethiopian asylum applicants and refugee community organizations.

Applicant's background: As it is known, Ethiopia is a country with high illiteracy rate (42.7 literacy rate¹¹), where the use of written materials in day-to-day activity is limited to few people and verbal contact is major means of communication. This oral culture is reflected in the way people gather, keep, disseminate and use information and it is still dominant even among the few enlightened group. They have the language problem as most of them are not able to speak the English language. There is also other aspect of the cultural background where the Ethiopian society is different than the developed world in talking to authorities. In Ethiopia authorities of every level, whether it is at local, regional or national, are seen as 'super powerful' figures and they can not be challenged or confronted. People by no means try to avoid eye contacts. In short individual 'rights' are inferior to 'obligations'. It is with such a backward baggage that asylum applicants from Ethiopia come to the western society and reflect these practices when approaching officials for their asylum cases. They have no knowledge of the process, they are not well prepared, do not have the language ability, do not dare to speak all the problems they have been through while the trauma is still in their mind. There is a cultural gap for people from the western society to understand these factors and as a consequence of that asylum applicants will be understood differently and their asylum claim will be refused. Here is a practical experience from one of the failed asylum seekers:

Failed asylum seeker 'S' arrived in the UK in September 2005. Because of her political problems at home she decided to leave her country and approached a middleman to bring her to the US. The middleman processed her document including UK transit visa to the US. In the UK she stayed for a while until he arranges her journey to the US. He took all her money telling her that he is arranging her journey but after three weeks and after using all her money, he told her that he was not able to bring her to the US and advised her to seek asylum in the UK. He brought her to Croydon and told her to tell the authorities that she arrived on that day. 'S' was in fear as she has no knowledge of the

asylum process and no English language ability. In her screening interview she told the official that she arrived on the same day as she was told by the man. During her substantive interview also she told the official not the whole story that forced her to leave her country (although there was physical and sexual assault case, which was later identified by her solicitor). That put together with the false entrance date she told to the officials, she was detained and placed in fast track procedure. During one of the visits a solicitor who was interested in women's situation came across her and started to study her case and asked for one to one talk. It was at this stage that her problem was identified. The solicitor approached Medical foundation for assessment and based on the result of that assessment 'S' was bailed and placed under section 4 support.

The experience of failed asylum seeker S reminds us the points mentioned earlier: She has no information of the asylum process, there was the language problem and she was in fear to tell what had happened to her to others. To this can be added the way S talks to others. Even at this stage she does not dare to talk to others face to face which I did observe during our discussion. However the impact of such practice was far reaching as one of the informants from Community organization pointed out:

'... body language is very important in this country. If you do not see face to face when talking to someone, they say 'this is shifty eye', and they think that you are not telling the truth or mischievous. It is the reverse in our country and you can not see someone direct and that is what we have been taught since early ages...'
(CO,11.12.08)

Preparation and self presentation problem: The unprecedented state of affairs happening in most politically unstable countries forces people to leave their country without preparation. Preparation in a sense, gathering information about their journey, the countries they intend to cross, the time it takes and their destination. It is also preparing your reason and arguments for leaving your country and getting supporting documents. That is what people are lacking as their decision to leave their country is mostly spontaneous. After going through various difficulties before and after leaving their home country, applicants need to have some time before starting the process of asylum application. Otherwise they will fail in providing the necessary information to their asylum claim. However, this doesn't mean that there is no error made by the applicants as some acknowledge their lack of preparation as part of their asylum seeking process. Either they do not try to get more information or do not keep record of events with regard to their asylum claims. Here is two practical example of such a situation:

A) Failed asylum seeker 'E' arrived in the UK in 1998 fearing for his life because of his political involvement at home. His decision to leave his country was very sudden without preparation and sufficient information. On his arrival at Heathrow he applied for asylum and went through the screening interviews. He was so exhausted from the journey, was not prepared for such process and there was no one to advice him. He wanted to do it quickly and get somewhere to rest. After some days he did his substantive interview and for five years there was no word from the authorities and then a refusal letter to his asylum claim. His appeal effort did not produce the positive out come he had expected and he is failed asylum seekers since that time. 'E' has worked in different places first legal but since sometimes illegal as his work permit is terminated. Reflecting back to his experience 'E' says that he was not aware of the asylum process and not prepared for that. Besides the long journey combined with the problem he has been through affected his presentation and that has influenced the

decision on his case. His understanding is that the failure of his asylum claim is caused by a combination of factors: his unpreparedness due to lack of sufficient information (*he acknowledges part of the blame in this regard*) and the system's failure in providing the necessary support at the beginning (FA, 23.07.08)

B) Failed asylum seeker 'C' came to the UK from East Europe in 1993, where he was following his higher education. In his time there was 'no organized' way of getting information and everyone depends on individual network and pieces of information he/she gets from different sources. In addition to that he stayed for one month before applying for asylum as he was not sure which source to use. At the end when he decided to seek asylum it was without preparation and sufficient information. He did not consult lawyer because he thought his genuine approach will be sufficient and also he thought consulting a lawyer was not a guaranty as he has seen failed cases supported by lawyers. The decision on his request was negative and the appeal process followed did not change the outcome. Thus for the last 15 years he has been living as one of those failed asylum seekers in the country. What is different to this gentleman is that he is married to UK citizen, has got children and he is working legally but his legal status is not changed. Thinking back he says ...' Look I was not fully aware of the procedures at the beginning and was not prepared enough with my case. So that has been at the core of my problem and I must take that part of the responsibility...' (FA, 16.06.08).

The experience from the above mentioned and other failed asylum seekers indicate that partly it is the asylum applicants lack of preparation and inability to present their cases that contribute to the failure of asylum claims. Most community organizations I have spoken to share this reasoning. That is how a coordinator of one of the Ethiopian community organizations has to say:

'... In my opinion.... most applicants are unsuccessful not because they do not have convincing evidence for their cases. It is because they have not been given enough time to prepare themselves and were not well supported before they start the next step. Escaping a regime by itself is a burden and crossing so many borders and reaching UK is another. There is also the traumatic event they have been through which is still running in their mind and that needs time and space to be replaced by good ones. In addition to all these is the new society with its complex system makes them inferior and affects their presentation...' (CO, 21.12.06)

The preparation and self presentation problem can also be caused not only by lack adequate and reliable information but also by lack of attention to details and procedures by the asylum applicants. For instance things like the Airline that brought the applicant to the destination, the transits made and the time of arrival etc are part of the things an applicant should be able to tell. Failure in answering this and other relevant questions clearly raises the issue of credibility. This is one of the factors contributing to the failure of asylum applicants from Ethiopia. Here is a good example of that:

'B' arrived to the UK in 1993 via one of the European countries. He came by plane, arrived in terminal one, a terminal which is mostly used by European flights and applied for asylum at the checkpoint. He told the authorities that he arrived from Djibouti which was not true. No plane arrives on that terminal during that period unless it is from one of the European countries and he didn't realize that or he didn't think of that seriously. In addition he told the authorities that he has no document and

that was not taken as genuine. According to him the Home Office did not believe his story because of the mistakes he has done at the entry. His application was not accepted and he has been through different appeal process and waiting for a decision. In the meantime he acknowledges his mistakes and takes part of the responsibility for the failure of his case. He says ‘..., you listen to so many advices and information at time which are not clear or incorrect’ (FA, 27.10.08).

The experience from one of the former community organizations project worker tells the existence of such individual mistakes when seeking asylum. This might have been triggered due to different circumstances including the exhaustive nature of the journey and challenges faced but he stress that asylum seekers should not forget that they are responsible for the account of the events they tell to the authorities. He says:

‘...I know from 2-3 cases where I was invited to give a statement. First of all we must not blame others as we are the owner of our case.... It starts from the arrival when they enter the country. I think they would have tried to get information before they decide to leave their country. That is one of the problems in our society And then some of them instead of getting information and applying on time they stay away from others. Actually it should have been at the airport ... But most of them stay some 2 -3 months and try to apply. That will be confronted with a question ‘where were you till today’? It is a problem of not realizing the procedures’, (CO, 04.10.07).

Post-asylum application factors: issues related to this factor are lack of information about the asylum procedure, legal representative problem, interpreter’s issue, Home office interviewing procedures and court related issues.

Lack of information: Asylum applicants apply either at entry ports (airport or sea port) or in the country. There are two scenarios here: those who apply at the entry port will start their process with minimum information of the asylum procedure, i.e. they will be interviewed by the Home office representatives. As Crawley, 1999 noted, some had no idea what the interviews were for; others understood them to be just information gathering; while yet others thought the interview was the actual decision-making process. Applicants also do not dare to clarify what their rights and obligations but follow the instruction even though they have something in mind fearing not to-upset the authority. In some cases no legal support or consultation was available and that has contributed to negative outcome. The experience of failed asylum seeker ‘E’ mentioned earlier is good example.

The other scenario is those who apply after entering the country. Some apply in a couple of days while others do that after some weeks or months. In between they do try to use their ‘network’ and get information, which is sometimes confusing or unhelpful. Though the informal network that existed among many of the migrant community including the Ethiopian is supportive, there are instances where asylum seekers themselves acknowledge as not supportive. Here some of those suggestions:

Asylum ‘I’ arrived in the UK in 2004 and his asylum application started in London. Upon arrival he tried to reach his community members for information but that didn’t work. In his words those he approached were established community members who either know very little or have forgotten the process to provide him with the information he needs. So he did seek asylum without sufficient knowledge of the asylum procedure and he was not able to convince the authorities and his asylum

claim was refused. He was thrown out of the house and was left without financial support. The first 8 months after his eviction he stayed with friends in Manchester and some 4 months here in London. It was during his time in London that he came across a lawyer through a refugee community organization who was willing to try his case. At present he is placed under a section 4 support. Reflecting back to his time he says ‘... initially because of insufficient information I have made some errors. I was also not prepared on my case even though I have a genuine reason for it. The people I met at that time were well established and have forgotten the procedures they have been thorough. Also things have changed since they arrived and it was not easy to advice some one unless you follow the development now and then...’ (FA, 10.07.08).

Problems related to legal representative: there are two aspects of this problem. One is the problem of getting legal representative and the other thing legal representative’s commitment. In the first case, I have observed that there are differences in networking with legal representatives. Eight of the failed asylum, applicants got their legal representatives after they have submitted their asylum applications and some of them on their appeal stages while others from the beginning. Those who have been supported from the beginning tell that they got their solicitors through their informal networks that shows the problem of getting legal support on time and when it is important.

The other thing is problem of getting solicitors who take cases seriously and support asylum applicants which is almost common to all. Some tell that solicitors were not present for their interview after they promised to do that and that has been a blow to their cases (FA, 27.10.08); others indicate that it is difficult to get in touch with solicitors because of their many commitments and if by chance you get the time it is only for short time which again is seen as being inefficient (FA, 31.07.08); some also say that at some stage solicitors stop following their cases at some stage seeking payments from applicants to further proceed with the case (FA, 07.08.08). Perhaps because of such experience in legal support that some try to represent themselves, which of course was not productive. Here is what failed asylum seeker ‘C’ I have mentioned earlier has to say:

‘...There was no legal support I have approached or interpreter I have used and looking to all what I have said and the documents I have submitted, I was given a negative decision. I went on the appeal procedures, which again I did it without solicitor because I wanted to represent myself.

Why was so?

‘...First it was my innocence and second I saw from others who submitted their cases with the support of lawyers getting the same decision and I didn’t see the advantage of having lawyer’s advice. Well, it didn’t work and I was trapped in the problem of being unrecognized asylum seeker...’ (FA, 16.06.08).

Community organizations have also mentioned such practical problems of some legal services. According to community organizations understanding in most cases asylum applications result is dependent on the efforts of solicitors. Here is what a community organization coordinator has to say:

‘At times genuine cases fail because of poor or unprofessional start... appeal cases, in particular, need an investigation of the case and relevant documents and that should be done by professional lawyers. Most cases lack such professional support. Clients are not in a position to interfere as they lack language ability, skill and putting things in logical sequences.I was fortunate to see some 10-15 cases and you see contradictions in essence, preparation and follow up. Preparing cases or clients were given less attention. If cases get recognition it is because of the good legal support the cases got from the beginning. Lawyers sometimes do not follow the dateline or give enough time for the appeal process and clients suffer because of such case handlings...’ (CO, 02.05.07).

Interpreter’s related issues: In most cases asylum seekers from Ethiopia require interpreter services when discussing their cases with officials as their English language ability is unsatisfactory. On the other hand interpreting is not only being able to speak the language but also understanding the culture, ways of expressions and nuances in the language. So the demand to get Amharic, Oromiffa or Tigrinya language interpreters has been a problem among the Ethiopian community for sometime and some failed asylum seekers have been offered interpreters with less ability in the language they wanted to express their cases and that has contributed by in large to the failure of their cases. One prime example of such problem is failed asylum seekers ‘S’ discussed earlier. Speaking about her interpreter she says:

‘ ... I think he was from When he was speaking to me in Amharic, it was difficult to understand. At the same time I was worried and frustrated. I was not aware that I was able to say that I can not understand what the interpreter was talking to me. I didn't know at all that I was able to tell them that we could not understand each other...’ (FA, 22.05.07).

A failed asylum seeker who happened to help others in interpreting confirmed the existence of interpreting problem among the Ethiopian community. Here is his experience

‘... An Ethiopian who happened to have accommodation problem approached the local authority for a solution. The local authority arranged a Tigrinya speaking man as interpreter and the interpreter started to talk to her in Tigrinya, which was difficult for her to understand and after sometime the official realizing the problem stopped the discussion and told the client to bring her own interpreter for the next appointment. So I was asked to help her and I went to the local authority office and sorted out the problem. This is from my own experience. I have also heard of some one, Oromiffa speaker, who was given a Tigrinya speaking interpreter and was not able to communicate with the client. When asked by the official what the problem is the interpreter replied that Amharic, Tigrinya and Oromiffa languages are the same but the client is not interested to talk and that is the problem. Such practical problems occur because no mechanism was put in place in hiring and evaluating interpreters ...’(FA, 06.07.08).

There are also interpreters who lack professional ability and moral obligation but think only about their income at the expense of others. Failed asylum applicants are against that and here is what one of them has to say:

Failed asylum seeker ‘K’ arrived in the UK in 1995. His asylum claim was not successful from the beginning and also his appeal process. So within few months of his arrival he became a failed asylum seeker and started to live with his own hard

work. At present he is married to UK citizen, a father of one child and working legally but unable to sort out his asylum application problem. Talking about interpreters he said ‘...I remember one thing from my interpreter’s service. Once we went together to the Home office and at the reception we met a lady who has got Arabic background. Looking to my name, I think she associated to one of the Arabic names and started to talk to me in Arabic. Although I am not perfect I was able to react in Arabic and we managed to understand each other. She again asked me my date of Birth and other stuffs in Arabic and I did continue to answer that. At this stage Mr. ...X... talked to me to stop communicating in Arabic because if I can talk to her without interpreter he will not be needed. He acted not in my support but in defense of his own position. I didn’t like that act and approach totally...’ (FA,31.07.08)

Interviewing processes: The interviewing procedure at the Home Office is and stays arguable from the point of view of the asylum applicants. For some the process is not systematic and not organized. For the others it lacks standard and accuracy as it is very subjective and dependent on how the individual interviewer understands the applicant’s account of event. There are also interviewers who know very little or do not know much about the circumstances of the applicant’s home country and do pay little attention to details of events. Instead, they pick non-relevant to the story issues which all in all contribute to the negative outcome of the procedure. Failed asylum seeker ‘K’ I just mentioned tells his experience as follows:

‘.. the Home Office staffs are not free of faults and biases. I think it all depends upon the understanding of the officer who interviews you. ...My case was related to AAPO¹² and I was grown enough to take part in such movement at the time of my asylum application. There was a girl who was junior in her age and claimed with the same reason as I did. Seeing back to that period I wonder how she was able to take that issue as a reason as she was not old enough to take part in such political activity. Any way she was recognized and I who happened to be very active was let down. I do not think there is a standard in determining asylum application at the home office. That is why I say it all depends upon the one who interviews you and in my case I think the interviewer was not good enough and I became part of the large group without recognition’ (FA, 31.07.08).

The practical experience of the community organizations matches the above point raised by the failed asylum seeker. Here is one of the examples:

‘... Those with genuine cases even those supported by us are refused, but others that we thought are with weak cases recognized. It’s an amazing working procedure that they have in this country. What the officer decides, the superior doesn’t review or change. The officer that comes to see you from the window is the one that follows your case and decides and there is nobody else to supervise him. It all depends on the benevolence of that person’ (CO, 09.05.07).

Asylum applicants and refugee community organizations understandings of the factors contributing to asylum application’s failure can be summarized in two main stages: the *pre-asylum application factors* and *post asylum application factors*. Differing from the research findings discussed earlier I found that failed asylum seekers and refugee community organization clearly pointed out that the pre-asylum application factors contribute much to the outcome of an asylum application. According to them less attention to asylum applicant’s background combined with insufficient time to over come the trauma they have been through and ability to

prepare their cases, have contributed to much of the initial decision 'errors'. The discussion with failed asylum applicants has also brought to light one additional factor – asylum applicant's inattentiveness. As it said the burden of proof is always on the individual asylum applicants and more active role was expected from the asylum applicants themselves. However, as some of the failed asylum seekers acknowledged careless approach to their cases has also contributed to the failure of their cases.

There are also post- asylum application factors which more or less are similar to the other research findings with some details. For instance the legal representative issues discussed in other research findings focus on the lack of sufficient legal support while the asylum applicants and refugee community organizations approach the issue from the point attention. According to them what matters is not the question of availability of the legal service but also the quality and the commitment from the solicitors.

Conclusion

The question 'why asylum seekers fail?' can be approached in various ways based on to whom the question is forwarded: the officials or the asylum applicants. My intention in this regard was to get asylum applicant's thoughts and refugee community organizations understandings. However, this can not be understood without the consideration of others interpretation in particular the parties involved in the decision making process. UNHCR indicating the problem stated that 'the quality of the process used to assess asylum applications is not always adequate, often because states lack the capacity to undertake this task effectively and because they are unable or unwilling to invest sufficient resources in it' (UNHCR, 2006). The official's point of view is that most asylum applicants fail in their asylum claims because of lack of adequate reasons for leaving their country in search of international protection but this is not equally shared by asylum applicants and refugee community organizations. They insist the demand for proof must be balanced with a meaningful support asylum applicants get throughout the process. According to them applicants background combined with lack of knowledge about the system and the asylum process and less organized support at the beginning are among the factors that contributed to the failure of most asylum claims. Besides the asylum applicant's lack of preparation and inability to present their cases due to language deficiency, cultural problem, time constraints and sometimes individual innocence are also seen as factors that contributed to the failure of asylum claims. Failed asylum seekers and refugee community organizations have also pointed out the inadequacy of the system in understanding the circumstances in which individual asylum applicants leave their country, travel to the nearest safe area and arrange their journey to the intended destination. For them asylum application is a process that consist applicant's decision to leave their home country, the journey with its ups and downs, destination and reception in the host country, which is followed by technical asylum application process. As a process each part contributes to the outcome. That is why they insist and request for the consideration of the whole process including the pre-asylum application circumstances and post application situations.

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End Notes

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- ⁵ . <http://www.homeoffice.gov.uk/pdfs08/hosb1108.pdf>
- ⁶ . <http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf>
- ⁷ . Three successive reports have been published after this initial report.
- ⁸ . Since April 2004 the amount of funding and therefore time available for individual asylum applicant was reduced to 5 hours at a flat rate of £50 per hour (Report CSJ, 2008: 38)
- ⁹ . <http://www.homeoffice.gov.uk/pdfs08/hosb1108.pdf>
- ¹⁰ . See appendix one.
- ¹¹ . <http://www.cia.gov/library/publication/the-world-fact/geos/et.html> accessed on 03.04.09
- ¹² .All Amharan People Organization
