

**IN SEARCH OF PROTECTION: SEPARATED CHILDREN SEEKING ASYLUM ALONE** by Mekdes Alemayehu & Yesim Deveci, Dost, Trinity Centre

**ABSTRACT**

Separated children applying for asylum in the UK are engaged in a complex, legal and heavily bureaucratic system. This paper explores their experience of this process. Situated within the relevant legal frameworks that offer young separated refugees protection as children, as asylum seekers and as children separated from their families and drawing upon research undertaken with a small sample group, this paper seeks to provide an insight into the lived realities of separated children claiming asylum. The authors examine the young people's experiences of the asylum process including their contact with the Home Office, legal representation, the asylum determination process and issues relating to migration control. These issues are then considered through the lens of the themes which emerge; culture of disbelief, security and criminalisation, waiting and lack of understanding.

“England lay before us, not a place, or a people but a promise, an expectation.”

George Lamming<sup>1</sup>

**INTRODUCTION**

Since the year 2000 more than 15,000 separated children have entered the UK seeking asylum (National Register for Unaccompanied Children, 2008).<sup>2</sup> In 2007 3,525 separated children applied for asylum and the top five nationalities were Afghan, Iranian, Chinese, Iraqi and Eritrean<sup>3</sup>.

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<sup>1</sup> Cited in Farah, N. (2000) *Yesterday, Tomorrow. Voices from the Somali Diaspora*, London & New York: Cassel p.95

<sup>2</sup> National Register for Unaccompanied Children <http://www.nruc.gov.uk>. For immigration purposes the term Unaccompanied Asylum Seeking Children (UASC) refers to a child who at the time of making the asylum application is, or (if there is no proof) appears to be, under eighteen, is applying for asylum in their own right and has no adult relative or guardian to turn to in this country. Brewis, H. (2007) *Asylum Statistics: UASCs Quarter 1 2007*. London: Home Office Available from: <http://www.homeoffice.gov.uk/rds/immigration-asylum-stats.html>

<sup>3</sup> Research, Development and Statistics Directorate (2008) *Asylum Statistics United Kingdom 2007*

Most of these children and young people arrive in the UK in a state of shock and confusion; many have endured extreme events as a result of armed conflict, political or religious persecution. Many have witnessed the violent death of parent(s) and family members, some have experienced detention and torture; genocide, persecution due to ethnic or religious identity, trafficking for the purposes of exploitation, forced recruitment into armed forces, forced marriage, rape and sexual assault, female genital mutilation, abuse, abandonment, and poverty<sup>4</sup>. All have lost their homes and are separated from their families and in need of protection.

In exile, separated children suffer greatly from the loss of all that is familiar; home, family, friends, community, language, culture, and way of life. Due to the heavy weight of their histories and the precariousness of the present, separated children are extremely vulnerable. They face a multitude of challenges as they attempt to adjust to life in the UK: language, their asylum claim, accommodation, budgeting, self-care, rebuilding a support network and accessing education, health and social care services. Although basic physical and financial needs are usually met by Social Services, the level of support they receive is often arbitrary and depends upon the resources and capacity of the professionals they come into contact with. As a result, many of these children do not have the consistent support and guidance of a responsible adult, and often carry the burden of both past and present alone. Moreover, as children subject to immigration legislation they have little control over their future and live in constant fear of eventually being returned to the countries they fled.

It was against the backdrop of these challenges that Dost<sup>5</sup>, which means *friend* in many languages, was set up. With funding to provide education, advocacy and support for young refugees we hoped to try and understand, and make a real difference to the lives of vulnerable children in our community. We understood that their realities were complicated, but believed that in many respects what was needed was simple: care, compassion and kindness. That was nine years ago and Dost has been a family and a home to hundreds of young refugees from all over the world since then. Based in Trinity Centre, a thriving community centre in East London, Dost provides a broad range of psychosocial support services (education,

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<sup>4</sup> Ayotte, W. (2000) *Separated children coming to Western Europe – Why they travel and how they arrive*. Save the Children.

<sup>5</sup> Dost means *friend* in Armenian, Dari, Farsi, Hindi, Punjabi, Urdu, Turkish

play, advice, advocacy and therapeutic support) and aims to support children and young people build their lives and become actively engaged with the community.

The arrival of significant numbers of separated children in Western Europe is a fairly recent phenomenon. There is a growing (although still limited) body of literature detailing the experiences of this group during their initial years in the UK but very little research, which relates specifically to their experience of the asylum process. This paper seeks to contribute to this limited body of research by providing an insight into the lived realities of separated children through accounts of first hand experiences gathered from a sample of children and young people who are in the process of claiming asylum in the UK. This paper is informed by our extensive experience of supporting separated children and it is from this perspective that we explore the interplay between the legal and bureaucratic process that the children are engaged in and their experience as children seeking sanctuary.

This paper is divided into four parts: firstly, we outline the legal and policy context/framework of protection and the UK asylum process. Secondly, we describe the methodology used to collect children's accounts of their experiences of the process. Thirdly, the key findings related to separated children's experience of the asylum process are presented and discussed under four sub-headings: culture of disbelief, security and criminalisation, waiting and lack of understanding.

### **Terminology**

'Unaccompanied children' are children under 18 years of age who 'are separated from both parents and are not being cared for by an adult who, by law or custom has responsibility to do so.'<sup>6</sup> However, recent trends have highlighted that not all children are unaccompanied as defined above and that children living with extended family members or other adults may face similar risks to those encountered by unaccompanied children. Subsequently, UNHCR encourages the use of the term 'separated children' to draw attention to the potential protection

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<sup>6</sup> UNHCR (1994) Refugee Children: Guidelines on Protection and Care. UNHCR Geneva

needs of this group<sup>7</sup> The term ‘separated children’ recognises “that children separated from their parents suffer physically, socially and psychologically as a result of being deprived of the care and protection of parents or other primary carer(s)”<sup>8</sup>

In this paper we use ‘separated children’ and ‘young separated refugees’ interchangeably to refer to children seeking asylum as well as those that have been granted limited leave to remain under the UN Convention Relating to the Status of Refugees (1951) and/or The Human Rights Act (1998).

## **LEGAL & POLICY CONTEXT**

Separated children coming into the UK seeking protection occupy a uniquely vulnerable space as children, as asylum seekers needing protection and as children separated from the care and protection of their own families.

### **Protection as children**

As children, separated young refugees are recognised moral and legal subjects possessing fundamental rights and entitlements that are enshrined in international and domestic legislation<sup>9</sup>. The 1989 United Nations Convention on the Rights of the Child (CRC), ratified by the UK in 1991 acknowledges and affirms the difference of children and recognises the need to offer forms of protection that are specific to that group;

‘The child by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate protection, before as well as after birth’<sup>10</sup>

The Convention is informed by key principles that have at their core the promotion of the best interests of the child and the need to accord weight to the child’s views on matters affecting his/her interests<sup>11</sup>. It remains one of the most highly ratified

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<sup>7</sup> UNHCR (2001) *Trends in Unaccompanied and Separated Children Seeking Asylum in Europe 2000*, Division of Operational Support UNHCR Geneva Available from [www.unhcr.org](http://www.unhcr.org)

UNHCR (2004) *Trends in Unaccompanied and Refugee Children seeking Asylum in industrialised countries 2000 –2003*, UNHCR

<sup>8</sup> Crawley, H., Bruce, G., Coker, J., Finch, N., Rowlands, S., Shutter, S., Stanley, A. (2004) *Working with children and young people subject to immigration control: Guidelines for best practice*. London: Immigration Law Practitioners Association. p.5

<sup>9</sup> James, A., Jenks, C. and Prout, A. (1998) *Theorising Childhood*, Oxford; Polity Press

<sup>10</sup> Preamble to the Convention on the Rights of the Child, 1989

<sup>11</sup> Archard, D. (2004) *Children: Rights and Childhood*, London; Routledge

international conventions and the rights enshrined within it are applicable to all children without discrimination.

Building on the principles of the CRC the Children Act 1989 forms the legal backbone of domestic legislation in relation to the care and protection of Children in the UK. The Act has at its core what has been referred to as the 'paramountcy principle', i.e. that in judicial process concerning the child, the best interests or the welfare of the child should be the courts paramount consideration<sup>12</sup>. The Act also requires that welfare agencies take into account the best interests as well as the wishes and desires of individual children<sup>13</sup>. This requirement was further cemented by the imposition of safeguarding duties under Section 11 of the Children Act 2004.

'Section 11 imposes a duty on public bodies to have regard to the need to safeguard and promote the welfare of children in discharging their normal functions and to ensure that their services are provided in regard to that need'<sup>14</sup>.

As children separated from their families, and without their primary caregivers, separated young refugees in the UK also qualify for support from the local authority social services departments under the provisions of the Act<sup>15</sup>.

Subsequent legislation such as the Children (Leaving Care) Act 2000 and 2004 and policy guidance such as the National Service Framework (NSF) for Children, Young People and Maternity Services<sup>16</sup> and Every Child Matters<sup>17</sup> also set clear standards outlining quality of life outcomes for all children in England and Wales.

Although the principles and rights outlined within the CRC were designed to be universally applicable, until recently this was not fully translated into reality at a domestic level. So whilst the UK ratified the CRC in 1991 until September 2008 the Government had placed a general reservation in relation to the entry, stay in and departure from the UK of children subject to immigration control and the acquisition

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<sup>12</sup> refer to Reece, H. (1996) 'The Paramountcy Principle', *Current Legal Problems*, vol. 49; 267-304

<sup>13</sup> James, A., Jenks, C. and Prout, A. (1998) *Theorising Childhood*, Oxford; Polity Press

<sup>14</sup> JCHR (2007) Joint Committee on Human Rights: Tenth Report, The Stationary Office p177

<sup>15</sup> Refugee Council (2007) *Asylum Support – Unaccompanied children seeking asylum*

<sup>16</sup> Department of Health, (2004) Executive Summary, National Service Framework for Children, Young People, and Maternity Services. London: DH.

<sup>17</sup> Department for Education and Skills (2003) Every Child Matters, Summary. London: DfES. Available from: <http://www.everychildmatters.org>

of citizenship, to prevent it affecting immigration status<sup>18</sup>. Although the Government has now lifted this general reservation, until that time separated children had effectively been excluded from the full protection afforded by the CRC.

The Government had also, until recently, excluded immigration agencies from the safeguarding duties outlined under Section 11 of the Children Act 2004. Effectively excluding from this protection all children coming into contact with immigration agencies, including separated children. In June 2008 the UK Government announced its intention to legislate to place a specific statutory child safeguarding duty on the Border Agency<sup>19</sup> and in January 2009 introduced a 'Code of Practice for Keeping Children Safe from Harm', as an interim measure offering guidance to UKBA staff dealing with children applying for asylum<sup>20</sup>.

These recent developments have served to ensure the full inclusion of separated children within the existing international and domestic protective frameworks.

### **Protection as children seeking asylum**

The rights of separated children as vulnerable people fleeing persecution and seeking protection are enshrined in the 1951 Convention and 1967 Protocol Relating to the Status of Refugees. The Convention which applies to all individuals applying for protection, defines a 'refugee' as someone who;

'owing to a 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 himself of the protection of that country'<sup>21</sup>

As a signatory to the 1951 Convention, the UK has a legal obligation to offer protection to those found to be fleeing persecution under the terms outlined above. The UK is also bound by the European Convention on Human Rights (ECHR), which was incorporated into domestic law in the Human Rights Act 1998. The

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<sup>18</sup> JCHR (2007); UNICEF UK (2004) Position Statement: Child Refugees, online [www.unicef.org.uk/unicefuk/policies/policy-detail.asp?policy=6](http://www.unicef.org.uk/unicefuk/policies/policy-detail.asp?policy=6)

<sup>19</sup> DCSF Press Notice 'Home Office And DCSF Signal Duty on UK Border Agency to Protect Children', 24<sup>th</sup> June 2008, Online [http://www.dcsf.gov.uk/pns/DisplayPN.cgi?pn\\_id=2008\\_0129](http://www.dcsf.gov.uk/pns/DisplayPN.cgi?pn_id=2008_0129)

<sup>20</sup> UKBA (2008) UKBA Code of Practice for Keeping Children Safe From Harm, ...

<sup>21</sup> Article 1 A (2) of the 1951 Convention Relating to the Status of Refugees

ECHR and the Act, which are designed to protect human rights and fundamental freedoms in Europe, offer a further layer of protection to individuals seeking safety.

The rights of refugee and asylum seeking children are also recognised within the CRC which outlines special provisions for that group including:

- Article 22: which gives special protection to refugee children including those not being cared for by their parents.
- Article 38: which gives special protection to those fleeing war and those affected by armed conflict<sup>22</sup>.

The term refugee can be used to generally describe a displaced person, however to qualify for legal recognition as a refugee a person will need to satisfy the terms of the 1951 Convention. This application for legal recognition can be made to either the UNHCR or a state that is a signatory to the 1951 Convention. Separated children seeking to exercise their right for protection and safety will therefore need to make an application for recognition, or what is referred to as an asylum application. As asylum applicants, separated children in the UK are involved in a legal process to establish their right to protection and as such are entitled to legal help. As claimants undergoing a legal process they can instruct a solicitor to represent them throughout the application process. In refugee claims the burden of proof lies with the claimant, consequently the onus is on the applicant to prove the facts of their claim - albeit with some qualifications as the UNHCR Handbook outlines;

... while the burden of proof in principle rests on the applicant, the duty to ascertain and evaluate all the necessary evidence in support of the application....if the applicant's account appears credible he should... be given the benefit of the doubt<sup>23</sup>.

The ability to provide proof, as well as the interlinked issue around credibility, is even more pertinent in relation to applications made by separated children and the UNHCR Handbook<sup>24</sup> makes reference to the fact that in assessing such applications the examiner may have to make a liberal application of the benefit of the doubt taking into account the maturity of the child.

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<sup>22</sup> UNICEF UK (2004) Position Statement: Child Refugees, on [www.unicef.org.uk/unicefuk/policies/policy-detail.asp?policy=6](http://www.unicef.org.uk/unicefuk/policies/policy-detail.asp?policy=6)

<sup>23</sup> Paragraph 196 in UNHCR (1992) Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees

<sup>24</sup> Ibid paras 213-219

### **The asylum process in the UK**

In the UK the Home Office is the government department responsible for dealing with all applications for recognition and protection under the terms of the 1951 Convention. The UK Border Agency, a shadow agency of the Home Office formed in April 2008, has responsibility for the day-to-day administration of the asylum application process.

The current system, the New Asylum Model (NAM), was introduced in February 2005 as a key part of the Government's strategy for asylum and immigration and has been operational since March 2007. The main objective of the NAM is, as the title to the Home Office press release suggests 'The New Asylum Model: Swifter Decisions – Faster Removal'<sup>25</sup>, to conclude the asylum application as quickly as possible. The process sets out to achieve this by the identification and segmentation of different types of cases, faster processing and the introduction of a single case owner model. Separated children making asylum applications will be dealt with under a specific Minors segment. They will be allocated a specially trained Case Owner who will be responsible for their case from application through to granting of status or removal.<sup>26</sup>

All separated children who arrive in the country seeking protection, have to lodge an asylum application either at the port of entry to an immigration officer, or in person at an Asylum Screening Unit (ASU). Once they have notified officials of their intention to seek protection under the 1951 Convention, they will have to attend the ASU where they will;

- Attend a screening interview which covers their personal details, how they travelled to the UK and basic information about why they are in the UK
- Be fingerprinted and issued with an Application Registration Card (ARC)
- Receive a Statement of Evidence Form (SEF) and a letter inviting them to a First Reporting Event (FRE)

Children will need to complete the SEF (outlining the reasons why they are seeking asylum) with the help of their legal representative and submit this within 20 working

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<sup>25</sup> Home Office Press Release: 'The New Asylum Model: Swifter Decisions-Faster Removal' 18<sup>th</sup> January 2006 online <http://press.homeoffice.gov.uk/press-releases/new-asylum-model-swifter-decisio>

<sup>26</sup> Refugee Council (2007) *Briefing: The New Asylum Model*



days. The allocated Case Owner will interview the child (in the presence of their legal representative and an appropriate adult) about the reasons why they are claiming asylum. They will then be informed about the outcome of their claim, either in person or via a letter sent to their legal representative.

The different possible outcomes can be summarised as follows:

- Grant of Refugee Status for applicants who can successfully demonstrate they need protection as defined by the Convention
- or
- Refusal under the terms of the Convention but grant of Humanitarian Protection for applicants who need protection on humanitarian grounds or
- or
- Refusal under the terms of the Convention but grant of Discretionary Leave to Remain (DLR) as a result of special circumstances
- or
- Refusal on all grounds.

UKBA have a standard policy to grant DLR (until the age of 17½) to separated children for whom it has not been possible to establish 'adequate reception and accommodation arrangements in the proposed country of return.'<sup>27</sup> In practice this means that the majority of children, aged under 17 ½, whose asylum claims are rejected will be granted DLR. In 2007, out of 2,780 initial decisions on asylum claims made by children aged 17 and under over 63% were granted DLR<sup>28</sup>.

The main difference between the current and old system, in relation to applications by separated children, is the introduction of the single Case Owner model – all other features of the process remain unchanged. All claims made before the 5<sup>th</sup> of March 2007, sometimes known as legacy cases, are currently dealt with by the Case Resolution Directorate within the UK Border Agency. The Directorate is currently dealing with an estimated 450,000 cases and it aims to conclude all the cases by 2011<sup>29</sup>.

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<sup>27</sup> UKBA (2007) *Amendment to Discretionary Leave Policy relating to Asylum Seeking Children*; APU Notice 3/2007

<sup>28</sup> Research, Development and Statistics Directorate (2008) *Asylum Statistics United Kingdom 2007*, Home Office

<sup>29</sup> UKBA online <http://www.ukba.homeoffice.gov.uk/asylum/oldercases/>

### **Children subject to immigration control**

As asylum applicants, separated children in the UK are also subject to immigration control. Situated within the context of the end of the Cold War, the changing landscape brought about by the onset of globalisation and the events of 9/11 and subsequent issues around terrorism, migration has become a highly politicised and controversial topic.

... migration carries with it the spectre of terror exported, trans-national crime proliferating, national borders abused with impunity and host communities ways of life under serious threat<sup>30</sup>.

Industrialised nations, including the UK, are increasingly taking a heavily controlled and security oriented approach to dealing with both migrants and refugees, two groups who under international law have different rights and are eligible for different levels of protection<sup>31</sup>. Consequently the UK Border Agency frames its general remit as being 'responsible for securing the United Kingdom's borders and controlling migration in the United Kingdom'<sup>32</sup>. The outcome of this has been a merging of the objectives of managing borders and combating abuse with the need to control access to asylum systems<sup>33</sup>.

Having been identified as a risk-group migrants, and more specifically asylum seekers, are now one of the most heavily scrutinised groups in society with control and surveillance measures that include fingerprinting and extensive monitoring.

With the exception of immigration control, fingerprints are usually only taken for the purposes of criminal or law enforcement measures. However all asylum applicants in the UK must be fingerprinted for identification purposes under the Immigration and Asylum Act 1999. Children over the age of 5 whether dependants or separated will also be fingerprinted (in the presence of a guardian/responsible adult) and the prints of children aged 14 and over will be recorded on and checked against the Eurodac<sup>34</sup> database. The Act also provides for the use of 'reasonable force to

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<sup>30</sup> Lavenex, S. and Kunz, R. 'The Migration Development Nexus in EU External Relations' in *Journal of European Integration*, vol 30(3), p. 511

<sup>31</sup> Feller, E. (2006) 'Asylum, Migration and Refugee Protection: realities, myths and the promise of things to come' in *International Journal of Refugee Law*, vol 18(3/4), pp.509-536

<sup>32</sup> UKBA online

<sup>33</sup> Kelley, N. (2007) 'International Refugee Protection Challenges and Opportunities' in *International Journal of Refugee Law*, vol 19(3) pp.401-439

<sup>34</sup> As of 2003 anyone over the age of 14 who applies for asylum anywhere in the EU, Norway or Iceland will have their fingerprints taken to be stored on the Eurodac database and shared

fingerprint any claimant or dependant who is refusing to provide his or her fingerprints<sup>35</sup>. Refusal to provide fingerprints will lead to refusal to provide ARC and will have repercussions for an applicants claim on non-compliance and credibility grounds.

Separated children over the age of 17 are also routinely required to report on a regular basis to an immigration officer under measures to ensure effective monitoring of individuals applying for asylum and enable enforcement action that UKBA may take – including removal.

### **Key Considerations**

Separated children applying for asylum in the UK are engaged in a complex legal process. They have to put forward a claim for international protection which requires them to meet the strict criteria for qualifying for refugee status. The asylum application process is heavily bureaucratic; it requires them to be in regular contact with immigration officials, to be interviewed repeatedly about their experiences by both immigration officials and their own legal representatives. From the moment they come into contact with the Home Office they are issued with a range of documents, throughout the process they are expected to complete numerous forms and ensure that these are filed on time.

In order to go through this process, children need to instruct legal representatives. To be able to do this effectively, it is essential that children have a good understanding of the status determination process, the function of legal representation and their own role within the process.

Separated children are rights bearers by virtue of childhood. However, as children seeking asylum they are subject to immigration control. As such they are subject to removal and have to submit to measures such as fingerprinting and reporting. Despite the raft of national and international legislation which seeks to ensure that the child's best interest remains paramount at all times, it is self-evident that the maintenance of boundaries by immigration legislation remains the main priority for

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amongst the different countries. For further information refer to the European Commission website, <http://europa.eu>

<sup>35</sup> UKBA (2006) API Fingerprinting online <http://www.bia.homeoffice.gov.uk/policyandlaw/>

the UK Border Agency. In this context, the spectre of removal hangs over separated children.

## **METHODOLOGY**

The broad aim of the research was to gain an understanding of the experience of claiming asylum from the perspective of separated children. Since 2000 we have supported more than 600 separated children; we have a searchable database which was used to identify potential research participants. Participants were randomly selected from a group, all of whom:

- Arrived in the UK between January 2006 and December 2008 as a separated child
- Have received a minimum of 10 hours psychosocial assistance from the service/ Casework support
- Are current Dost service users

It is accepted that variables such as age, gender, ethnicity, country of origin, level of literacy in mother tongue and/or English, accommodation and level of support may impact on an individual's experience of the asylum process.

In the first instance we spoke to potential participants to explain the purpose of the interviews and explained that we wanted to speak to them about their experiences of applying for asylum so that we could help other professionals to understand.

Our initial conversations with the young people were focused on:

- Explaining the purpose of the interviews, the process and possible implications
- Explaining that the interviews had no relation to their asylum claim and would not affect their case
- Discussion around possible use of interpreters where requested (this decision was left to the young person) and issues of consent and confidentiality

Of the 13 young people approached, 9 of them agreed to be interviewed. The sample group represents the current population of unaccompanied children seeking asylum. The group comprised 9 males from the following countries: Afghanistan (3), Eritrea (2), Guinea (1), Iran (2), Iraq (1). Of this group 2 had DLR

with an extension application decision pending, 5 had DLR until the age of 17.5, 2 were still awaiting a decision. All those interviewed were in the care of Social Services/ in local authority care.

The interviewers were all Dost staff known to the young people. All were experienced interviewers with extensive experience of working with vulnerable children in a variety of contexts. Moreover, as Dost staff they were familiar with the broad context of the young people's lives.

The semi-structured interviews were based on a series of questions around the process of applying for asylum, specifically:

- Contact with the Home Office; face to face, interviews, documentation
- Legal representation
- The asylum determination process and issues of status
- Issues relating to controlled migration; fingerprinting and reporting

Our intention was to focus on the experiences of the young people and the meaning they attached to the process; to understand what was most difficult and what was helpful.

### **Ethical Considerations**

This research was informed on good practice guidelines suggested for research with separated children.<sup>36</sup> The key ethical issues are as outlined below:

#### **Informed consent**

When asking young people to participate in the interviews we were mindful that as service-users they may feel duty bound to participate. With this in mind we emphasised that they were in no way obliged to take part, and could withdraw at any stage. Moreover, we explained that their decision with regards to whether or not they would participate would in no way affect the support they received from Dost. We also ensured that the young people fully understood the context in which the information would be used.

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<sup>36</sup> Thomas, S. & Byford, S. (2003) Research with unaccompanied children seeking asylum. *British Medical Journal* December 13, 327: 1400 –1402

### **Interviewer/ Interviewee relationship**

There is a culture of disbelief, which permeates the experiences of young people claiming asylum. In this context, given the sensitive nature of the interview content and vulnerability of participants we felt that it was particularly important that the interviewers were seen as credible and trustworthy. The prolonged engagement of the interviewers with the participants as service users meant that the young people could feel confident that the interviewers would be sympathetic to their accounts.

### **Confidentiality and Anonymity**

Participants were made aware that the context of their interviews would be seen by other members of the Dost team and that they would therefore be identified internally. However, we explained that all identifying details would be changed before the information was in the public domain and thus their contributions would be anonymous.

### **Data analysis**

The process of analysis involved transcribing interviews, reading and re-reading transcripts to identify themes. Analysis matched and compared themes identified by the young people, with our broader experience of working with separated children going through the asylum process over the past nine years.

## **FINDINGS AND DISCUSSION**

Through the process of data analysis four main themes emerged – culture of disbelief, security and criminalisation, waiting, lack of understanding.

### **Culture of disbelief**

As outlined in section one of this paper, in refugee claims the burden of proof lies with the claimant. Although the recommendation is to apply a liberal benefit of the doubt principle in cases involving children, in reality the opposite is often true. In 2007, out of 2,780 initial decisions only 11.4% were positive and granted either refugee status or humanitarian protection.<sup>37</sup> A possible explanation for this low rate of recognition may be that very few children's claims qualify for refugee status. However, given the level of conflict and instability in the majority world, it also

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<sup>37</sup> Research, Development and Statistics Directorate (2008) *Asylum Statistics United Kingdom 2007*, Home Office

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suggests that the UKBA do not seem to apply the benefit of the doubt principle. This culture of disbelief is also reflected in the experience of the young people we interviewed.

*“Everything they said – we didn’t accept you as a refugee that wasn’t true. Plus my social worker didn’t believe my age; she thought I was a lot older. That was a bad situation for me.”*

Dawit, 15, Eritrea

Of the nine participants interviewed five have been age disputed by either the Home Office or, in several cases, Social Services. Many of the young people spoke about being questioned repeatedly as part of the application and determination process.

*“Question was like stupid questions. They ask me, why I come here? I want to ask, why you go to my country? They repeat the questions 3 or 4 times – why you come here? Why you come here? Why you come here?...I feel I just couldn’t take it. All the questions they didn’t ask what you want, how you feel. They just ask how you came here, who you came with, that’s all they ask. Everything was different. They ask me 100 different questions and they repeat questions.”*

Ali, 19, Iraq

This process of constant questioning made little sense to them and many of them felt that they were being tested or even tricked.

*“The interpreter spoke my language but some of the questions I couldn’t understand them. The man was saying if you don’t understand it’s cool, if you don’t understand but I think he was doing it on purpose. I was thinking he’s going to deport me and not give me papers....when I went first time I just done what I had to do. He was asking me things that only old people can answer it. Not all questions but some I couldn’t answer it. Like about religion, and the Bible. I should know these things but I have to be old to know this “*

Dawit, 15, Eritrea

They described the pressure of the interviews and the fear that a single mistake would mean they were sent back home.

*“....a little mistake can be the end of your case. They look for one mistake and refuse your case, so you have to be ready. They have a lot of cases and can’t deal with all of them in a good way. You have to be careful and focused and patient. You can’t lose your temper because one mistake could lose your case and you could lose everything and be deported back to your country. Them job is to ask questions, your job is to answer them.”*

Ali, 19, Iraq

The overwhelming sense of the experience was that they couldn't be trusted.

### **Security and criminalisation**

*"There were so many police officers searching. Metal detectors. Upstairs they check again. They don't look like nice persons – they didn't say nothing – they way they look is no good".*

Dawit, 15, Eritrea

A common theme in the interviews was the young people's fear of the security they were faced with and a sense of being treated like criminals. Several young people described their first visits to the Home Office

*"When I passed the third floor there was a one girl. I saw 9 or 10 police look at you like strangers. I don't know what to say. There's one machine and you go through it. They ask name and country but I don't know what they're saying. A lot of people in my situation are sitting and waiting....*

*Scared – I don't know anyone. A lot of security around you, confused. Think you're going to a police station....I say you have to be strong and don't be scared"*

Ali, 19, Iraq

*"The first time I went I didn't know anything so I agreed with everything. They said we can send you back whenever because you came here illegally. That made me very upset...The first time, they destroy your spirit. I thought they were going to deport me."*

Mustafa, 17, Iran

All the young people that we spoke to were fingerprinted and none of them were told why. Dawit, who was 13 on arrival described being fingerprinted:

*"The first day when I came to the airport, I didn't know what was happening. I felt like a criminal, like I killed someone or something. That's what I wanted to tell them – but I just done what they said..."*

Additionally, three out of the four young people aged 17 and above that are eligible for reporting have been issued with reporting instructions.

*"They say sign, I sign...nobody has explained for me, why I sign. It's difficult, you know?"*

Abraham, 17, Eritrea



*"I don't know – they give me paper. I don't know any reason some people go every week, there are women and children there too. When you go there's nothing; takes 20 seconds then go out ...I don't see the point for 1 minute. Just to show my paper – I don't know the reason why. [friend] has to go every two weeks. Maybe I have to go because I don't have paper. I'm not allowed 100% and they want to make sure I'm still here."*

Ali, 19, Iraq

### **Waiting**

All the young people spoke about the hours of waiting during their initial contact with the HO: waiting to be interviewed, waiting to be fingerprinted, waiting to be told where to go next, and waiting for pieces of coloured papers which would allow them to leave.

*"I do it because I need my ID card. I left home at 8:00 in the morning and came home at 10:00 in the evening. I had flu and a cough and the man say do you want a break? I say no, I just want to finish and go home. I didn't eat anything the whole day".*

Ali, 19, Iraq

This experience of seemingly endless waiting seems to be an inescapable feature of the asylum process from initial application through to conclusion. The time spent awaiting the determination of their application varied between the different groups of young people. The young people whose applications were being processed under the legacy system spoke about being stuck in a limbo. As Siddy, a 19 year old from Guinea explains;

*"I can't say that it's been good or it's been worse because they never tell me something very very bad. They never told me bad news and it's like normal but I'm still in the middle because they haven't told me. Although it's getting longer for now I can tell you that I'm still in the middle because they haven't decide anything yet. They haven't tell me to leave the country or they haven't give me anything. I'm still in the middle."*

For Ali, the uncertainty of not knowing is unbearable

*"If ask me I say don't make them wait. Make it quick. Give the answer. First time I waited 5 months. From July 2007 until now I am still waiting. They say we don't know when we're going to tell you but the final date will be in 2011. By then I'll have been here 5 years....If they say go out, I say ok, I got my education, thank you very much. I have seen worse in my country it's just one paper, which tells me am I allowed or not. If you have seen death, and you escaped from it, you can't care about one paper."*

Those whose cases were being processed under the NAM spent between two months to a year and four months whilst awaiting an initial decision.

*“I have been here for 1 year and 4 months now and I still do not know anything about my case.”*

Mustafa, 17, Iran

### **Lack of understanding**

The young people we spoke to had very little, if any understanding of the asylum process; they did not understand the context of protection or the details of the process.

*“On the first day I didn’t understand most of the questions and was very tired and didn’t understand much. My only feeling was that I wanted rest as I was really tired and didn’t understand”.*

Hassan, 17, Iran

*“I wasn’t sure what was happening, they just took me there and after while I was waiting there, they took me and started questioning.”*

Abdul, 15, Afghanistan

This lack of understanding is evident with regard to all aspects of the process. At the most basic level many of the young people do not understand the documentation they are given:

*“My cupboard is full of papers but I don’t know what any of it means. I only know when it’s from my solicitor because I recognise their logo”*

Hassan, 17, Iran

*“Just makes you think what’s this for? Why do I have to do that? Sometimes I don’t even find the reason. Some letters make you happy, some make you sad”.*

Ali, 19, Iraq

None of the young people we spoke to had a clear understanding of the status determination process

*“Nobody knows what the Home Office will decide”* Hassan, Iran

When asked how he thought the Home Office decided his case, Abdul assumed this was a question about returning to Afghanistan and replied

*“It’s not an option for me I have problem in Afghanistan and I came here to stay and it has given me one year and four months. I came to here to seek shelter and they just gave me one year and four months,”*

when the question was repeated he said

*"No, I don't know. I was told by my solicitor that they have given me a visa until I am seventeen and a half years old."*

One of the most striking features of the interviews with young people was their lack of awareness of their positions as legal actors engaged in a legal process.

*"If they ask me to go then I go. Solicitor tells me to go to the Home Office, they give you paper to stay in this country because I give them what happened in my country. A lot of problems."*

Mirwais, 15, Afghanistan

Most of the young people did not understand the purpose of legal representatives

*"I feel surprised – why I need a solicitor. There's a system. Solicitor take case I deal with it. In my country, you only need a solicitor if you're a criminal, a murderer or something. But in this country you need a solicitor for everything."*

Ali, 19 Iraq

Worryingly, the majority did not realise that in going to the solicitor they were in fact instructing legal representatives to act on their behalf. At best, they understood it as a helping relationship

*"My only feeling when seeing the new solicitor was the hope that he could help me because I didn't know anything".*

Hassan, 17, Iran

## **CONCLUSION**

Separated children applying for asylum in the UK are engaged in a complex, legal and heavily bureaucratic system. While it is unsurprising that as children they may not fully understand the details of the legal process, it is nonetheless worrying that they appear to have no sense of their own agency, however limited this may be. If they are unable to understand the process or even their role within it then how can they effectively exercise their right to protection?

As children engaged in an adult process it seems only right that they should be guided by a reliable adult. In the absence of their parents and customary carers, separated children are often left to navigate this complex system alone. It is notable that all the children we interviewed were in fact in the care of the local authority.

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Some spoke of helpful foster carers or social workers that accompanied them to the Home Office or solicitor, but there appeared to have been little attempt to ensure that children understood the process they were engaged in.

In fact many of the young people described their engagement in the asylum process as something done to them: a process in which they are the objects rather than the subjects. In their accounts of their contact with the Home Office their experiences are framed as a sequence of events in which they are pawns pushed about by greater forces waiting for the elusive 'visa', the all important piece of paper that will grant them leave to remain. However, unlike the pawns in a game of chess, which pursue a path across the board to become a queen, with ultimate freedom of movement, these children have no control over their futures.

A common thread which runs throughout all the young people's accounts is the constant threat of removal. They live with the daily anxiety of being sent back to the countries they fled in fear of their lives, countries which include Afghanistan and Iraq. However, in the midst of such uncertainty and desperation, it is the sense of loss and the pain of separation which colours their realities

*"The worst thing is the loneliness, you are without your family and that makes me very sad...The only thing I can add is that the HO can give me a passport, give me a home and benefits but can they ever return my family? No they can't."*

Mustafa, 17, Iran