

Walking A Tightrope: Hidden issues, challenges & complexities surrounding the protection needs of Albanian unaccompanied young people seeking asylum in the UK

Summary Report of Conference (6th June 2017)

SUMMARY OF KEY ISSUES

- Current country guidance for Albania, used as the basis for making decisions on asylum claims for unaccompanied young people, is outdated and not fit for purpose
- Country guidance on blood feuds fails to recognise the potential impact of feuds across several generations and their relevance to the lives of young people currently seeking asylum.
- Home Office guidelines and principles informing due process in children's asylum cases, and in particular the application of the 'benefit of doubt' principle, need to be more systematically upheld for children and young people from Albania.
- There is a significant need for research to improve evidence and understanding of a number of key areas affecting the migration decisions and asylum claims of unaccompanied young people from Albania

INTRODUCTION

Children and young people from Albania form the third largest group of unaccompanied asylum-seeking children in the UK. They include young people affected by blood feuds and family conflict in Albania, those facing persecution because of their sexuality, and others who are victims of trafficking or of domestic violence. Yet in 2015, out of 440 initial decisions on claims for asylum, only one Albanian child was granted refugee status and by September 2016 only 4 per cent of all Albanian nationals claiming asylum had been granted refugee status or an alternative form of protection. Moreover, Albanians are the most likely to be forcibly removed from the UK (1,260 Albanian people were removed in 2015, constituting 10% of the total number of people removed). Once refused asylum, given the likelihood of forced repatriation to Albania, many young people 'disappear' from public view and stop engaging with public services, often resulting in them becoming destitute. To date there has been scant policy, research or media attention given to: i) the specific factors underlying Albanian children and young people's claims to asylum in the UK; ii) the fact that they are so commonly refused asylum; and iii) the impact of these refusals on their wellbeing as they become young adults.

This conference aimed to increase understanding of the lives, circumstances and fundamental issues faced by Albanian young people and to help dispel the myths that perpetuate and act as a barrier to achieving durable solutions for those seeking safety and support. It was jointly organised by ESRC- funded Becoming Adult Project (www.becomingadult.net) based at UCL Institute of Education; the Shpresa Programme, London; the Migrant & Refugee Children's Legal Unit (MiCLU) and Islington Law Centre, London; IOM, United Kingdom; the UCL School of Slavonic & Eastern European Studies (SSEES) and Newham Partnership for Complementary Education (NPCE). It brought together more than a hundred participants including practitioners, legal specialists, policy makers and academics working in the field together with Albanian young people in order to: i) explore these issues in greater depth through sharing knowledge and expertise; ii) give voice to Albanian young people seeking safety in the UK; and iii) help develop a policy, practice and research agenda towards achieving durable solutions for unaccompanied minors from Albania.

The day combined presentations from expert key speakers with action planning-oriented workshops around the following key issues relevant to the circumstances of Albanian young people seeking asylum in the UK:

- 1) Blood feuds and the impact of ‘Kanun’ on the lives of young people
- 2) Domestic violence
- 3) Factors affecting the lives of LGBT young people
- 4) Human trafficking
- 5) Religion and radicalisation

In what follows, we outline the main implications and recommendations for policy, practice and research which emerged from these workshops. A key theme permeating all the recommendations is the need to review and improve the Country Policy and Information Notes for Albania which are used by UK Visas and Immigration officials to make decisions in asylum and human rights applications. It was concluded that the Country Policy and Information Notes for Albania in some cases are outdated, disconnected from the realities of young people’s experiences and are not adequately fit for purpose.

Blood Feuds

Blood feuds and family conflict in Albania form the basis of the claims for asylum for many young people but are often not recognised when making decisions on such claims. The following recommendations for policy, practice and research emerged from workshop:

Recommendations for policy

- Home Office Country Policy and Information Notes for Albania on blood feuds fail to recognise that such feuds can remain dormant for extended periods of time. There are examples of people experiencing blood-feud related persecution after a period of more than 14 years. The guidance therefore needs to be updated and revised to reflect this situation.
- Home Office and UNHCR guidance makes it clear that there should be a child-sensitive approach to children and young people’s asylum cases which leans towards the benefit of the doubt principle. In practice, in the case of Albanian children and young people claiming asylum on the basis of blood feuds, this approach is rarely seen. Home Office guidelines and principles informing due process in children’s asylum cases need to be more systematically upheld for children and young people from Albania.

Recommendations for practice

- Solicitors and other legal practitioners when working with children and young people from Albania need to improve the quality of written statements which are the basis of the asylum claim. They must work towards statements which are child-focused (clearly indicating the impact of circumstances from a child’s perspective), detailed and thorough in content.
- Home Office officials questioning children need to understand that children and young people may be developmentally less able to take on the point of view of a third party. As such, they need to adapt their questioning style to account for this. There are many documented examples of HO officials inappropriately asking children to explain or make sense of the motivations/actions of a third party.

Recommendations for research

- Anecdotal evidence suggests that blood feuds are taking on new forms and impacting people’s lives in different ways. For example, women and children appear to be increasingly targeted; and the ceremonial aspects of feuds are becoming less prevalent as perpetrators attempt to be more discreet and avoid prosecution. Further research is needed in order to better understand these emerging dynamics of blood feuds in Albania.
- Data on the scale of the phenomenon of blood feuds is required. While the Home Office states that the number of blood feuds is small, there is no evidence base for this claim. For example, evidence from the NGO Operazione Colomba working in Albania contradicts Home Office Country Policy and

Information Notes for Albanian blood feud on a number of points. Such on the ground evidence needs to be more systematically gathered and used to inform policy and practice.

Domestic Violence and forced marriage

Domestic violence in Albania remains a serious and widespread problem. Women at risk of domestic violence in Albania are not considered to form a particular social group within the meaning of the 1951 UN Refugee Convention. This is because although traditional views of their subordinate position in society are still prevalent in parts of Albania, in general they are considered to have equality before the law and access to state protection against domestic violence. Internal relocation to avoid risk from domestic violence is likely to be possible, as long as it would not, on the particular facts of the case, be unduly harsh to expect the woman to do so. In the absence of a link to one of the five Convention reasons necessary for the grant of refugee status, the question to be addressed in each case is whether the particular person faces a real risk of serious harm as a result of the threat of domestic violence, sufficient to qualify for Humanitarian Protection. There is limited understanding of how domestic violence and/or forced marriage influence the migration of unaccompanied both female and male children and young people from Albania.

Recommendations for Policy

- Young people who can demonstrate that there is a real risk of serious harm as a result of domestic violence and have no recourse to effective state protection or internal relocation should be granted Humanitarian Protection.

Recommendations for Practice

- Work needs to be done within Albania to enable communities to prevent and create resistance to domestic violence and to establish stronger national networks of support for those affected by domestic violence and organisations working with them.
- Services to enable young men and women to break from and recover from domestic violence are urgently required and, recognising how long recovery can take, need to be adequately resourced.
- Building local and national networks of support are required since currently no support networks exist in large parts of the country

Recommendations for Research

- Further research is needed to better understand the impact of domestic violence on unaccompanied minors (including boys and young men) and how this influences their migratory decisions.

Persecution related to sexual or gender identity (LGBT)

Persecution based on sexual identity and/or expression is the basis of some claims for asylum for young people from Albania. However, such claims are frequently poorly represented and consequently dismissed in the asylum determination process. LGBT persons form a particular social group (PSG) in Albania within the meaning of the Refugee Convention because they share a common characteristic that cannot be changed and have a distinct identity which is perceived as being different by the surrounding society. Although LGBT persons form a PSG, this does not mean that establishing such membership will be sufficient to be recognised as a refugee. The question to be addressed in each case is whether the particular person will face a real risk of persecution because of their membership of such a group. There are laws in Albania prohibiting discrimination against LGBT persons and the government supports LGBT rights. However, Albania is a conservative society where homophobic attitudes persist and personal circumstances may place some LGBT persons at risk from non-state actors, particularly in rural areas.

The following policy, practice and research recommendations emerged from the workshop:

Recommendations for Policy

- Current guidance for assessing the credibility of asylum claims requires reviewing and updating. The Difference, Stigma, Shame and Harm (DSSH) model for assessing credibility of LGBT claims (Credibility Assessment in Asylum Procedures vol. 2, Hungarian Helsinki Committee) is considered to be the most appropriate guidance and this should routinely be applied (and adapted as appropriate) in cases concerning young people.

Recommendations for Practice

- Solicitors and legal advisors need to build a stronger body of case work for young people with sexual identity or gender identity persecution claims. Guidance with respect to building this evidence was shared and discussed during a special session at the ‘Walking a tightrope’ conference.
- Young people who may have had claims for asylum refused as a result of the Home Office’s continued reliance on outdated country guidance, need to be identified and advised on how to make a fresh claim for asylum
- There is a need to improve the quality of interpreting in cases for young people making an asylum claim on the grounds of sexual identity or gender identity persecution.

Recommendations for Research

- Further research is needed into the ways in which children and young people articulate their claims to asylum on the grounds of sexual and/or gender identity persecution and how these are interpreted within the asylum determination process.
- The HJ Iran (Homosexuality: reasonably tolerating living discreetly) test is an unreasonable test in itself, but it seems particularly important to explore the ways in which it is likely to affect children and young people whose current lives cannot be taken as an indication of the way they might wish to live in the future.

Trafficking

Albanian women who have been trafficked form a particular social group (PSG) within the meaning of the 1951 UN Refugee Convention because they share a common characteristic that cannot be changed and have a distinct identity which is perceived as being different by the surrounding society. However, this does not mean that establishing membership of this PSG will be sufficient to be recognised as a refugee. The question to be addressed in each case is whether the particular person will face a real risk of persecution on account of their membership of such a group. In the country guidance case of TD and AD (Trafficked women) CG [2016] UKUT 00092 (IAC) (9 February 2016) the Upper Tribunal held that ‘it is not possible to create a typical profile of a trafficked woman from Albania; trafficked women come from all areas of the country and from varied social backgrounds’ (paragraph 119(a) of determination). According to statistical information provided by the Office of the National Anti-trafficking Co-ordinator (ONAC), the number of potential victims and victims of trafficking identified in 2015 was 109 including 48 children. The vast majority of the victims were Albanian. However, the actual number is believed to be much higher and in January 2016, one EU Observer stated: ‘Thousands of women and girls have been trafficked from Albania alone to western Europe as sex slaves in the last two decades’.

Recommendations for Policy and Practice

- Expert advice for people who have experienced trafficking is currently inadequate. There is a need to develop clearer guidance and training for solicitors and other professionals working with young people in order to ensure that young people get the best possible advice and support.
- Professionals supporting victims of trafficking should apply known best practice including
 - Use of a ‘trauma- informed approach’ which supports empowerment and self-efficacy through addressing trauma only within a trusting relationship
 - Appropriate use of expertly-trained interpreters

- Ensuring that those who have been trafficked understand their rights and the implications of being registered within the National Referral Mechanism

Recommendations for Research

- Further research is required into the ways in which traffickers working within and from Albania operate with respect to children and young people
- Further research is needed on the impacts of trafficking on men and boys from Albania

Religion and Radicalisation

Lawyers and non-governmental organisations are pointing to radicalization as a new and distinct category of involuntary Albanian migration to the UK. There are reports that combined socio-economic pressures such as blood feuds and poverty leave some individuals, in some cases, and entire families, in others, prey to radical Islamic groups, like ISIS. Once in contact, these groups then try to entice these individuals into committed membership and participation in ISIS battlefronts such as in Syria. Although there are still relatively few claims, and mostly from adults (including mothers with young children) from Albania, there have been some claims from minors. The success rate of such claims is very low and they are usually certified as unfounded under Section 94(2) of the NIAA 2002. Such cases are unlikely to be taken seriously, given the predominately secular outlook and the recent history of economic migration out of Albania. The role (if any) of religious pressure in the process of involuntary migration from Albania and whether ISIS is a credible threat within this context are important unanswered research questions.

Recommendations for research

- Cases involving radicalisation in Albania need to be collated to help generate a stronger evidence base to inform appropriate policy and practice responses
- Given the global dimensions of what is called “radicalization,” we need to take a comparative approach, especially in view of possible similarities in other Muslim-populated countries in the region.

Policy and practice implications

- These are likely to emerge once there is a stronger research and evidence base concerning the role of religious pressure in the process of involuntary migration.

This conference would not have been possible without the contribution of many dedicated and committed individuals and agencies who worked together to make this event such a success. We are indebted to everyone who gave their time, energy and expertise, whether to lead a workshop, give an address, make the film, advise on content, or undertake administration. We are especially grateful to the young people who took part in the event, including those from John Ruskin College: your courage inspires us to continue to work to secure safe and just durable solutions for all young people.

