

Can protection win in a culture of disbelief? Unaccompanied minors, age assessment and the benefit of the doubt

Professor Marie-Benedicte Dembour

The number of people forcibly displaced in the world is unprecedented. They include many unaccompanied children, defined in law as persons under 18. As per the UN Convention on the Rights of the Child, the authorities where the children find themselves must consider their 'best interests'. In particular, children must be accommodated and receive education which is appropriate to their age. However, many asylum seeking young people who say they are children are not believed. When their age is disputed, they are subjected to an age assessment procedure. Inevitably, the latter is rigged with difficulties.

In the absence of documentation recognised to be reliable, it is impossible for age to be determined with certainty, included by medical practitioners. Recognising this, UK law and policy insist on the importance of giving the young people the benefit of the doubt as to their age. In practice, however, the young people's words are often doubted, so that age assessing social workers often determine them to be older than they claim to be for reasons that do not stand logical scrutiny. This is then rarely corrected.

This paper reviews how such a gap between theory and practice has been allowed to emerge, with devastating consequences for the people primarily concerned but also for the rule of law and society at large. It urges a steadfast adherence to the well-conceived principles that underlie the legal framework that is supposed to govern this area. With a government which has made it very clear that it has no intention to welcome refugee, insisting of such adherence is a challenge that we must all embrace.